CITY OF PORTLAND, OREGON

Bureau of Police
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Directives 1010.00, Use of Force; 1020.00, Weapons Administration; and 1021.00, Weapons Qualifications
Executive Summary

Introduction

In accordance with the 2012 Department of Justice (DOJ) Settlement Agreement, the Portland Police Bureau is required to conduct an initial six-month and subsequent annual reviews of DOJ-identified directives after receiving DOJ approval on the directive and implementation. The Bureau originally enacted the DOJ-approved Directives 1010.00, Use of Force; 1020.00, Weapons Administration; and 1021.00, Weapons Qualifications in August 2017 and initiated the six-month review process in February 2018. The Policy Development Team worked closely with the DOJ, the Compliance Officer and Community Liaison (COCL), and internal staff to revise the policies. Many of the changes improve accountability measures, provide clearer guidance to members, and address operational and training needs, as identified by the aforementioned stakeholders.

Public Comments

The Bureau received limited feedback during the universal review and public comment periods for each directive. Generally, commenters expressed concern about shifts in policy and practices pertaining to warning issuance, the use of less-lethal weapons on animals, and the tracking of secondary firearms. Moreover, commenters proposed changes to policy terms, recommended the Bureau provide more explicit guidance regarding the carrying of conducted electric weapons (CEWs), and suggested more restrictive policy language as it pertains to a specific type of deadly force.

Definitions

At the recommendation of both internal and external stakeholders, the Bureau revised several definitions. Some modifications were to provide clarification of the term, while other revisions address training and operational issues and emphasize necessary safety precautions.

Warning Issuance

One community member both highlighted the Bureau's proposed change to its procedures for issuing warnings and called on the Bureau to instruct its members to ensure people understand the warning offered.

The Bureau trains its members to provide clear and comprehensible warnings, unless there is a safety risk posed to the member or others, prior to using any force. Furthermore, members are to take into account that there may be impediments that prevent the individual from understanding the information; therefore, members are also directed utilize other means by which to convey the warning. When time,

safety, and circumstances permit, the Bureau expects members to make reasonable efforts to ensure the warning is understood. Both the policy and the members' training underscore this expectation.
The Bureau also revised Directive 1010.00, Use of Force, to allow for exceptions to the warning issuance requirement for Category IV uses of force and vehicle intervention techniques. This change largely addresses a practical challenge to issuing warnings under these circumstances, due to temporal limitations. A commenter expressed concern about the impact the change has on a situation when a member points a firearm (a Category IV use of force). The newly-added exception does not allow for the use of a firearm prior to issuing a warning. Given the nature of most incidents when a member would draw their firearm (i.e., there is an immediate risk to the safety of the member or others), members may not be positioned to issue a warning prior to drawing their weapon; however, members are still required to provide a warning, when time, safety, and circumstances permit, prior to *using* their firearm. In circumstances where a warning is required (i.e., all other categories of force) but not offered, members must still provide an explanation in a written report.

Carotid Neck Hold
The Bureau received feedback regarding the use of the carotid neck hold. Specifically, the commenter expressed concern about the inclusion of the term in the policy, without an outright prohibition. The commenter recommended a similar prohibition as included when providing instruction around the use of batons and impact weapons.

Although the Bureau does not train on or encourage the use of this tactic, the Bureau included the term in its policy for consistency because the DOJ Settlement Agreement contains the term in the definitions of "Lethal Force" and "Serious Use of Force." The Bureau also referenced the tactic in the section in Directive 1010.00, Use of Force, pertaining to the review of Category I force, as the expectation is that members will not employ a carotid neck hold unless deadly force is authorized. Members receive training in the use of batons and impact weapons, therefore, it was essential to emphasize in policy that those tools should not be used in a certain manner (e.g., on an individual's head or throat) unless deadly force is authorized. Similar guidance is not necessary for the carotid neck hold because no training is offered on its use.

Use of Impact Munitions on Vicious or Aggressive Animals
The Bureau added language in the less-lethal force section of Directive 1010.00, Use of Force, that allows for the use of impact munitions on vicious or aggressive animals that pose a safety risk to the member or others, or interfere with the execution of a police function or completion of a mission. The revision brings the practice, with regard to the use of these tools, in line with the use of other less-lethal tools and weapons. Members are not permitted to use force on an animal out of a sheer inconvenience posed by the animal; rather, the animal must be vicious or aggressive in nature and satisfy the aforementioned criteria. As with all uses of force, members are also still required to document the use of an impact weapon on an animal in a force report.

Crowd Management Reporting
The Bureau received one comment in which a respondent questioned the limited reporting requirements for events or demonstrations included in Directives 1010.00, Use of Force, and 905.00, Non-Force After Action Reporting.

The two policies referenced contain narrow instruction for reporting on events and demonstrations; however, Directive 635.10, Crowd Management/Crowd Control, provides comprehensive guidance to ensure that the Bureau's response to these events is thoroughly documented and reviewed. For example, Incident Commanders are required to write an appropriate after action report, review uses of force by personnel from assisting law enforcement agencies, complete a comprehensive report that documents their and the Bureau's decision-making during the event, conduct a formal debrief of the event with supervisory staff, etc. Directive 635.100, Crowd Management/Crowd Control, sufficiently addresses the substance of the reporting requirements in this context.

Conducted Electric Weapon Carrying Location
One commenter suggested that the Bureau should provide explicit guidance to members regarding how CEWs should be carried. Specifically, they recommended that members carry the devices on the opposite side of their body from their firearm.

Members are permitted to carry CEWs in a few locations on their person, such as on their external vests, as instructed and approved by the Training Division. However, as training and Directive 1020.00, Weapons Administration, clarify, members must draw their CEWs with their support hand. This term of art (i.e., "support hand") and guidance are clear to members, as they are trained to carry their primary firearm on their dominant side to facilitate access with their dominant hand.

Secondary Firearm Tracking
The Bureau received a recommendation suggesting that the Bureau should track the serial numbers of members' secondary firearms.

The previous iteration of Directive 1020.00, Weapons Administration, required members to receive approval from the Chief (or a designee) and to submit the weapon to a firearms instructor for inspection prior to carrying a secondary firearm. Recognizing an accountability gap in policy, as highlighted by the commenter, the Bureau added language to the directive to strengthen the tracking procedures for secondary firearms. In addition to maintaining the approval mechanism and requiring the member to qualify with the secondary firearm, the policy now expressly requires the Training Division to document the serial number and verify it at the time of each qualification. Furthermore, members are now required to notify their command-level supervisor when they carry a secondary firearm, to ensure the supervisor is aware of how many members are carrying a secondary firearm at any given time while on duty.

<u>The Bureau's Revised Policies</u>
The revised policies reaffirm the Bureau's commitment to protecting the safety of the public and its members, while also acknowledging the Bureau's responsibility to ensure its members exercise their authority to use force responsibly. The policies also remain consistent with the terms of the DOJ settlement agreement, ensuring the Bureau's compliance with DOJ direction regarding the use of force, accountability systems, and related training procedures.

While most of the revisions to the policies address training and operational challenges, several of the changes also incorporate recommendations the Bureau received during the universal review and public comment periods. The most significant changes centered on enhancing particular accountability measures and refining certain concepts to increase Bureau and community members' understanding of

the Bureau's policies and procedures. Specifically, the Bureau strengthened its review process for the unintentional dispatch of less-lethal weapons, a change that reinforces the Bureau's commitment to accountability. The Bureau also clarified certain definitions and revised its force policy to distinguish between de-escalation and disengagement.

The Bureau believes that the revised directive provides more clarity and enhanced guidance to its members; however, any suggestions to further improve this policy are welcome during its next review.

These directives will become effective on January 19, 2020.

Note: The Portland Police Bureau Chief signed the aforementioned policies on December 20, 2019 to satisfy a training deadline. Due to staff unavailability, the Bureau was not able to publish the executive summary package until January 07, 2020.

Published on 1/7/20

1010.00, Use of Force

Refer:

- *Graham* v. *Connor*, 490 U.S. 386 (1989)
- ORS § 161.015, General Definitions
- DIR 315.30, Satisfactory Performance
- DIR 330.00, Internal Affairs, Complaint Intake and Processing
- DIR 333.00, Criminal Investigations of Police Bureau Employees
- DIR 345.00, Employee Information System
- DIR 416.00, Critical Incident - Temporary Altered Duty
- DIR 630.05, Vehicle Interventions and Pursuits
- DIR 630.45, Emergency Medical Custody Transports
- DIR 630.50, Emergency Medical Aid
- DIR 631.70, Investigation of Animal Problems
- DIR 635.10, Crowd Management/Crowd Control
- DIR 640.02, Photography and Digital Imaging
- DIR 850.20, Mental Health Crisis Response
- DIR 900.00, General Reporting Guidelines
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1020.00, Weapons Administration
- DIR 1021.00, Weapons Qualifications
- PPB Canine Unit Standard Operating Procedures

Definitions:

- Active Aggression: A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is about to happen, unless intervention occurs.

- Administrative Review: A written determination that requires the gathering and evaluating of information to develop a course of action.

- After Action Report: A written report that describes a police action and assesses its adherence to policy through critique and evaluation using required criteria.

- Arcing: Activating a conducted electrical weapon (CEW) without discharging the probes or making contact with a subject, to serve as a warning to the subject.

- Boxing In: A coordinated tactic of making contact between police vehicles and a subject's vehicle to stop or prevent the start of a pursuit.

- Complaint of Improper Force: A complaint by a subject or person at the scene, or while in police custody, of improper force during a police action. Complaints of improper force include complaints of inappropriate and/or excessive force.

- Complaint of Physical Injury: An assertion by a person that a member caused the person physical injury.

- Conducted Electrical Weapon (CEW): A weapon, including Tasers, designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses.

- CEW Application: The contact and delivery of an electrical impulse to a subject using a CEW.

- CEW Cycle: An activation of the CEW for a duration of up to five seconds.

- Constitutional Force Standard: Under *Graham v. Connor* and subsequent cases, the federal courts have established that government use of force must comply with the "reasonableness" requirement of the Fourth Amendment. Under this standard, members must choose from the objectively reasonable force options at a scene. See the definition of "objectively reasonable" below.

- Cover Fire: When a member discharges a firearm in a tactical situation in response to the ongoing threat of the use of deadly physical force by a subject, and direct action against the subject is not feasible. Cover fire is not intended to strike a subject, but is meant only to prevent a subject from taking further action against the police or others that could result in death or serious physical injury. Cover fire can be dangerous and must be used with extreme caution. Cover fire is also intended to allow officers to take actions to resolve the situation, such as effecting a rescue, advancing or retreating, or delivering chemical agents.

- Critical Firearm Discharge: Each discharge of a firearm by a member. This term includes discharges at persons where no one is struck. This term is not intended to include discharges at the range or in training, or negligent discharges not intended as an application of force, which are still subject to administrative investigation.

- Deadly Force, also known as Lethal Force: Any use of force likely to cause death or serious physical injury, including the use of a firearm, carotid neck hold, or strike to the head, neck or throat with a hard object.

- De-escalation: A deliberate attempt to prevent or reduce the amount of force necessary to resolve the confrontation.

- Drive Stun: The process of applying energy to a subject through the terminal on a cartridge or conducted electrical weapon.

- Force: Physical coercion used to effect, influence or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. Control holds and handcuffing without resistance do not constitute force.

- Immediate Cover: A member who stands ready to deploy additional control if needed (e.g., the CEW is ineffective or it fails to function properly).

- Improper Use of Force: The application of force where there is insufficient justification for its use, where the use of force is more than is objectively necessary or that violates policy.

- Involved Member: For the purposes of this directive, 1010.00, Use of Force, an involved member is a Bureau member who is involved in the application of force or directs another to use force.

- Less Lethal Force: A force application that is not intended or expected to cause death or serious injury and that is commonly understood to have less potential for causing death or serious injury than conventional, more lethal police tactics. Nonetheless, use of less-lethal force can result in death or serious injury.

- Less Lethal Weapons: Weapons designed and intended to apply less lethal force. These weapons include, but are not limited to, CEWs, impact weapons, impact munitions, aerosol restraints.

- Mental Health Crisis: An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress (e.g., anxiety, depression, anger, fear, panic, hopelessness), a thought disorder (e.g., visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment), obvious changes in functioning (e.g., neglect of personal hygiene) and/or catastrophic life events (e.g., disruptions in personal relationships, support systems or living arrangements; loss of autonomy or parental rights; victimization or natural disasters), which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.

- Mental Illness: Health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress and/or impaired functioning. Alterations in thinking, mood, or behavior contribute to a host of problems-patient distress, impaired functioning, or heightened risk of death, pain, disability, or loss of freedom.

- Misconduct: Conduct by a member that violates Bureau regulations, orders, directives, or other standards of conduct required of City employees.

- Necessary: No objectively reasonable effective alternative exists to affect a lawful purpose.

- Non-Disciplinary Corrective Action: Action other than discipline taken by a PPB supervisor to enable or encourage a member to improve their performance.

- Objectively reasonable: The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration

to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, uses of the terms reasonable and reasonably in this policy refer to objective reasonableness.

- Passive Resistance: A person's non-cooperation with a member that does not involve violence or other active conduct by the individual.

- Physical Injury: As defined in ORS § 161.015 (7), the impairment of a person's physical condition or causing a person substantial pain. Substantial pain refers to degree and duration of the pain suffered by the victim; the pain must be considerable and must be more than momentary.

- Physical Resistance: A person's physical attempt to evade a member's control that does not rise to the level of active aggression.

- Probe Cartridge: A device that contains two probes connected to light gauge wire that is propelled and attaches to the subject upon activation of the CEW.

- Pursuit Intervention Techniques (PIT): A driving technique designed to stop a fleeing motorist safely and quickly by making contact with the fleeing car at a specific point on the vehicle, which throws the car into a spin and brings it to a stop.

- Ramming: The use of an emergency (police) vehicle, other than in a pursuit intervention technique or boxing-in maneuver to purposely cause contact with another vehicle in order to disable the vehicle.

- Serious Physical Injury: As defined in ORS § 161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ.

- Serious Use of Force: (1) all uses of force by a member that reasonably appear to create or do create a substantial risk of death, serious disfigurement, disability, or impairment of the functioning of any body part or organ; (2) all critical firearm discharges by a member; (3) all uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospitalization, or an injury deemed to be serious by a member's supervisor; (4) all head, neck and throat strikes with an object or carotid neck holds; (5) force used upon juveniles known or reasonably assumed to be under fifteen or individuals known or reasonably assumed to be pregnant; (6) all uses of force by a member resulting in a loss of consciousness; (7) more than two applications of a CEW on an individual during a single interaction, regardless of the mode or duration of the application, regardless of whether the applications are by the same or different officers, and regardless of whether the CEW application is longer than 15 seconds, whether continuous or consecutive; (8) any strike, blow, kick, electronic control weapon system cycle, or similar use of force against a handcuffed, otherwise restrained, under control, or in custody subject, with or without injury;

and (9) any use of force referred by a member's supervisor to Professional Standards Division (PSD) which PSD deems serious.

- Takedown: Physical coercion used by a member to affect, direct, or influence a person to go to the ground not under their own control.

- Warning shot: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

- Witness member: For the purposes of this directive, 1010.00, Use of Force, a witness member is a Bureau member who observes or has firsthand knowledge of the events surrounding the use of force by another member, and other than observing the incident, did not use force themselves. Additionally, a member who observes or has knowledge of the events surrounding a member's direction to another to use force.

Policy:

1. The Portland Police Bureau is committed to upholding the civil rights of all individuals, protecting human life and property, and maintaining civil order. The Bureau's commitment to public safety includes ensuring the welfare of members of the public, its officers and professional staff, with an emphasis on the sanctity of life and policing with respect.

2. The Portland Police Bureau recognizes that this commitment may require members to use force. The community expects and the Portland Police Bureau requires that members use only the objectively reasonable force necessary to perform their duties and overcome the threat or resistance of the subject under the totality of the circumstances. Members who violate these values by using objectively unreasonable force erode the confidence of the community and may expose themselves, those present, and the greater population to unnecessary danger; thus, objectively unreasonable uses of force shall result in corrective action and/or discipline, up to and including termination.

3. While the ultimate objective of every law enforcement encounter is to protect the public, nothing in this policy requires a member to retreat or be exposed to possible physical injury before applying reasonable force.

4. Over the course of their careers, the Bureau expects members to develop and use skills and abilities that allow them to regularly resolve confrontations while minimizing the need to use force. Members are to be aware that this Directive is more restrictive than state or federal laws.

5. The Bureau is dedicated to providing training in all categories of force and de-escalation techniques, as well as providing sufficient resources, to help members safely and effectively resolve confrontations through the application of de-escalation tools and lower levels of force. When feasible, members are expected to use de-escalation tactics in order to avoid the need for or reduce the amount of force. However, the Bureau recognizes that each situation is unique and presents its own challenges. Members are expected to adapt and apply Bureau training principles reasonably in unanticipated situations.

6. Members shall attempt to avoid or minimize the use of force against individuals in perceived behavioral or mental health crisis or those with mental illness and direct such individuals to the appropriate services, where possible.

7. Member accountability is integral to building and maintaining community trust. The Bureau is committed to institutionalizing systems of accountability and establishing transparent reporting practices. When force is used, the Bureau is dedicated to reviewing, reporting and investigating member actions to determine if the force used was in accordance with Bureau training and policy. This policy establishes reporting and investigative guidelines for all use of force. It includes the specific reporting requirements for all force incidents and the completion of police reports and After Action reports, as defined in this Directive.

8. The Bureau recognizes that the use of force may have an emotional impact on all involved. Members are encouraged to take proactive steps to mitigate these impacts through positive interactions with subjects and concerned community members following such an event.

Procedure:

1. **De-escalation:**

1.1. Members shall use de-escalation techniques, when time and circumstances reasonably permit. De-escalation techniques provide members the opportunity to stabilize the scene or reduce the necessity for or intensity of force so that more time, options and resources are available to resolve the confrontation. Members shall take proactive steps to eliminate the immediacy of the threat, establish control and minimize the need for force.

1.1.1. De-escalation techniques include, but are not limited to: 1) using verbal techniques to calm an agitated subject and promote rational decision making; 2) allowing the subject appropriate time to respond to direction; 3) communicating with the subject from a safe position using verbal persuasion, advisements, or warnings; 4) decreasing exposure to a potential threat by using distance, cover, or concealment; 5) placing barriers between an uncooperative subject and an officer; 6) ensuring there are an appropriate number of members on scene; 7) containing a threat; 8) moving to a safer position; and 9) avoiding physical confrontation, unless immediately necessary.

1.1.2. When practical and appropriate, members shall consult with and/or call specialized units to respond, including but not limited to those related to behavioral health, tactics and/or negotiation, to assist in de-escalating the situation or devising a disengagement strategy or otherwise assist in safely resolving the incident.

1.1.3. To avoid confusion, members shall establish and maintain one-on-one communication with the subject and avoid giving simultaneous directions or having multiple members verbally engaging the subject.

1.2. Members shall consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to: 1) medical conditions; 2) mental impairment; 3) developmental disability; 4) physical

limitation; 5) language barrier; 6) drug or alcohol impairment; and 7) mental health crisis.

1.3. Members shall consider a disengagement plan when the benefits to be gained by police intervention are clearly outweighed by the risks associated with the call.

1.4. When responding to and managing scenes involving persons in mental health crisis and when time and circumstances permit, members shall consider using disengagement and de-escalation techniques, as well as devising a response plan through the ROADMAP tool. Members shall refer to Directive 850.20, Police Response to Mental Health Crisis, for additional guidance regarding ROADMAP and encounters with individuals with known or perceived mental illnesses or experiencing mental health crisis.

1.4.1. Tactics in ROADMAP can be used as a stand-alone tactic, or they may be overlapped with other tactics to create a plan. Plans may need to be altered several times during an incident as it evolves, and members should be prepared to switch to other tactics as the totality of the circumstances changes.

1.4.1.1. When safe under the totality of circumstances, members shall consider disengagement as a tactic to reduce undue safety risks to the member, the involved person(s) or others.

1.5. When force is used, the amount of force used, including the number of members who use force, shall be reduced as resistance decreases. Only the amount of force reasonably calculated to maintain control shall be used.

1.6. Members shall refrain from using force against individuals who are already under control by officers or who express verbal discontent with officers, but do not otherwise pose a threat to officers or others, or impede a valid law enforcement function. Members must balance the governmental interest to take action in service of the public against the rights of individuals involved.

2. **Authorized Use of Force.**

2.1. Members are authorized to use force when permitted by this policy in order to:

2.1.1. Prevent or terminate the commission or attempted commission of an offense;

2.1.2. Lawfully take a person into custody, make an arrest or prevent an escape;

2.1.3. Prevent a suicide or serious self-inflicted injury;

2.1.4. Defend the member or other person from the use of physical force; or,

2.1.5. Accomplish some official purpose or duty that is authorized by law or judicial decree.

3. **Warning Issuance.**

3.1. Unless it would present a danger to the member(s) or others, members shall issue a clear and intelligible verbal warning or attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to using any force.

3.1.1. Members shall provide a description of the warning given in their use of force reports. If no warning was given, members shall provide a justification for the lack of warning.

3.1.1.1. No written justification is necessary for the lack of a warning for the following:

3.1.1.1.1. Vehicle intervention techniques; and

3.1.1.1.2. Category IV force.

3.2. Prior to using a less lethal weapon, members shall, when feasible, warn or announce to other members their intent to use the tool, in an attempt to avoid sympathetic fire.

4. **Prohibited Use of Force.**

4.1. Members shall not use force against people who engage in passive resistance that does not impede a lawful objective. Physically moving a subject engaged in passive resistance is permitted when it is necessary and objectively reasonable.

4.2. Members are prohibited from using force for interrogation or torture.

4.3. Under no circumstances will a member use force solely because another member is using force.

5. ***Graham* Standard: Force Performance Requirements.**

5.1. To comply with this Directive and satisfy the constitutional standard, members shall only use force that is objectively reasonable under the totality of circumstances. When determining to use any force, members must balance the individual's Fourth Amendment rights against the government's interest. Members shall at least consider the following three criteria in making a decision to use force:

5.1.1. **Threat**. Whether the individual poses an immediate threat to the safety of the officers or others. The extent and immediacy of the threat are the most important determining factors when considering the need for and type of force that may be reasonable during an encounter.

5.1.2. **Severity**. The severity of the crime at issue.

5.1.3. **Active Resistance or Evading**. Whether the individual is actively resisting control or attempting to evade. When force is used, the amount of force used, shall be reduced as resistance decreases. Only the amount of force reasonably calculated to maintain control shall be used.

5.2. Though the above three factors are of primary consideration, a reasonableness inquiry is not limited to these factors and force will be evaluated under the totality of the circumstances.

5.3. **Member Considerations for Use of Force.**

5.3.1. Members should recognize that their approach to confrontations may influence whether force becomes necessary and the amount force that must be used.

5.3.2. Members must not precipitate a use of force by placing themselves or others in jeopardy through actions that are inconsistent with the Bureau's training without a substantial justification for variation from recommended practices.

5.3.3. When feasible, members shall allow individuals time to submit to arrest before force is used.

5.4. **Other Member Responsibilities.**

5.4.1. Members must individually justify each independent application of force. When feasible, members shall re-evaluate the need for continued force in between independent uses of force.

5.4.2. Members have a duty to reasonably intercede to prevent the use of unlawful force by another member.

5.4.3. Members shall take into account all available information, including observed behavior, reports from other members or witnesses, known mental health history and perceived mental illness or mental health crisis.

5.4.4. During a confrontation with an individual known or perceived to be in mental health crisis, members must recognize and reasonably balance the governmental interest in providing care to the individual with the need for force. Members shall call in specialized units when practical.

5.4.5. Members shall refer to Directive 850.20, Police Response to Mental Health Crisis, for intervention techniques regarding individuals with known or perceived mental illnesses or experiencing a mental health crisis.

6. **Less Lethal Force.**

6.1. Less lethal force provides members with additional tactics or options for managing encounters with threatening or actively resistive subjects. However, members shall consider that the use of less lethal force can still result in death or serious injury.

6.2. Members shall not use less lethal weapons on the following persons unless the person is armed with a dangerous or deadly weapon, or is about to commit suicide, or is in the act of causing harm to themselves or others, or the member has probable cause that the subject has committed a Measure 11 crime:

6.2.1. Children who are known to be, or are obviously under the age of fifteen.

6.2.2. An individual who is known to be, or is obviously pregnant.

6.2.3. A person who is known to be, or is obviously medically fragile.

6.3. Members shall not use any less lethal weapons against individuals who are handcuffed or otherwise restrained, and under control.

6.4. Additional rules for Bureau-authorized less lethal weapons are outlined below:

6.4.1. *Impact Weapons.*

6.4.1.1. Authorized Uses.

6.4.1.1.1. In response to active aggression.

6.4.1.1.1.1. When striking, members should only use the Bureau-issued baton. Use of any other impact tool is strongly discouraged and is appropriate only when the member reasonably believes that other authorized physical force responses are not available.

6.4.1.1.1.2. Members shall make reasonable efforts to ensure that impact weapons are used on preferred target areas, including arms and legs.

6.4.1.2. Restricted Uses.

6.4.1.2.1. Members striking or jabbing with a baton shall not deliberately target the head or throat, neck, spine, or groin unless deadly force would be authorized.

6.4.1.2.1.1. Unintentional or inadvertent strikes to these restricted areas require following all other reporting procedures, with the addition of explicitly verbally notifying a supervisor that this has occurred. Reports must specifically address the circumstances and actions that related to striking restricted areas.

6.4.2. *Impact Munitions*.

6.4.2.1. Authorized Uses.

6.4.2.1.1. In response to active aggression;

6.4.2.1.2. To prevent suicide or immediate physical harm when reasonable in light of available options;

6.4.2.1.3. To avoid the use of a higher level of force; or,

6.4.2.1.4. To effect the capture or prevent the escape of a subject when the member reasonably believes that the subject presents an immediate risk of physical injury to the public, members or themselves, or the escape of the subject presents a significant danger to the public, members or themselves. Mere flight from an officer is not sufficient cause for the use of the impact munitions.

6.4.2.1.5. Members shall make reasonable efforts to ensure that impact munitions are used on preferred target areas. Under seven yards, members will aim for the legs. Over seven yards, members will aim anywhere below the waist line except the groin.

6.4.2.1.6. Members may use impact munitions on vicious or aggressive animals when the presence of those animals interferes with the safety of the members or the public, the execution of a police function, or completion of a mission.

6.4.2.2. Restricted Uses.

6.4.2.2.1. Members shall not deliberately target a subject's head, neck, throat, or groin area, unless deadly force is authorized.

6.4.2.2.2. Members are prohibited from using impact munitions against an individual for the purpose of crowd control or crowd management, except at the direction of a supervisor and with the approval of the Incident Commander (IC), unless there are exigent circumstances requiring deployment to prevent the threat of death or serious injury to a person.

6.4.3. *Aerosol Restraints.*

6.4.3.1. Authorized Uses.

6.4.3.1.1. When a person(s) engages in physical resistance or indicates the intent to engage in physical resistance.

6.4.3.1.2. Members may use aerosol restraints on vicious or aggressive animals, when the presence of those animals interferes with the safety of the members or the public, the execution of a police function, or completion of a mission.

6.4.3.2. Restricted Uses.

6.4.3.2.1. Aerosol restraints shall not be used on the operator of a motor vehicle that is immediately capable of being driven unless there is a substantial justification for doing so and no reasonable alternative is apparent.

6.4.3.2.2. When deploying aerosol restraints, members shall attempt to minimize exposure to non-targeted persons.

6.4.3.3. Actions Following the Use of Aerosol Restraints.

6.4.3.3.1. Members shall make a reasonable effort to ensure that affected individuals are exposed to fresh air. Members shall, as soon as practicable, relieve the subject's discomfort by washing aerosol spray from the subject's eyes with water, unless the subject refuses by words or action.

6.4.3.3.2. Members shall notify the receiving agency of aerosol restraint exposure, and the condition of the exposed individual taken into custody shall be continuously monitored. If the individual's condition appears to worsen, members shall notify medical personnel.

6.4.4. *Conducted Electrical Weapon System (CEW).*

6.4.4.1. Authorized Uses.

6.4.4.1.1. In response to active aggression;

6.4.4.1.2. To prevent suicide or immediate physical harm when reasonable in light of available options;

6.4.4.1.3. To avoid the use of a higher level of force; or,

6.4.4.1.4. To effect the capture or prevent the escape of a subject when the member reasonably believes that the subject presents an immediate risk of physical injury to the public, members or themselves, or the escape of the subject presents a significant danger to the public, members or themselves. Mere flight from an officer is not sufficient cause for the use of the CEW.

6.4.4.1.5. Members may also utilize warning tactics such as arcing or activating the CEW lasers in an attempt to gain compliance. Members should point the CEW in a safe direction when arcing and never intentionally direct the lasers into the eyes of a person.

6.4.4.1.6. Members may use a CEW on vicious or aggressive animals when the presence of those animals interferes with the safety of the members or the public, the execution of a police function, or completion of a mission.

6.4.4.2. Restricted Uses.

6.4.4.2.1. Members shall avoid the use of more than three CEW applications against the same individual, unless exigent circumstances (immediate and serious bodily harm to a person or persons is about to occur) warrant use. Members shall not use a CEW for pain compliance against those a reasonable officer would believe have an actual or

perceived mental illness or are in mental health crisis, except in exigent circumstances and then only to avoid the use of a higher level of force.

6.4.4.2.2. Members shall not use a CEW to threaten or coerce a person except for the purpose of managing a potential or actual physical confrontation.

6.4.4.2.3. Members shall not use a CEW when there is a significantly heightened risk of secondary injury (e.g., uncontrolled fall, drowning) to the subject or others unless the member reasonably believes the threat or danger posed by the subject outweighs the risk of injury that might occur as a result of loss of control.

6.4.4.2.4. Members shall not use a CEW on a handcuffed or otherwise restrained subject, unless doing so is necessary to prevent them from causing serious physical injury to themselves or others, and/or to avoid greater application of use of force and no reasonable alternative is apparent. Where practical and safe to do so, members shall obtain supervisory authorization before deploying a CEW on a handcuffed subject.

6.4.4.2.5. Members shall not draw both a firearm and a CEW at the same time.

6.4.4.2.6. Members shall not use a CEW for crowd control or management purposes.

6.4.4.2.7. Members shall not deliberately target the head, face, or groin. When tactically feasible and time reasonably permits, members shall target lower-center mass for front shots.

6.4.4.2.8. Members shall not use a CEW on subjects who are known or who the member should have reasonably known to have come in contact with flammables or those in areas where flammables are present.

6.4.4.3. Additional considerations when using a CEW.

6.4.4.3.1. Members shall visually and physically confirm that the weapon they are holding is a CEW and not a firearm.

6.4.4.3.2. Only one member may intentionally deploy a CEW at any given time on a subject, except where lethal force would be permitted.

6.4.4.3.3. Members deploying a CEW operationally, if feasible, should be supported by at least one member capable of providing immediate cover.

6.4.4.3.4. Members shall make every reasonable effort to attempt handcuffing during or between each CEW cycle.

6.4.4.3.5. After one standard CEW cycle, the member shall re-evaluate the situation to determine if subsequent cycles are necessary; members shall issue a warning prior to each additional cycle and wait a reasonable amount of time to allow the subject to comply, unless doing so would present a danger to the member(s) or others. Members shall describe and explain the reasonableness of each CEW cycle in their use of force reports.

6.4.4.4. Actions following the use of a CEW.

6.4.4.4.1. Involved member responsibilities:

6.4.4.4.1.1. If possible, members shall photograph consistent with Directive 640.02, Photography and Digital Imaging, the areas of probe strikes, whether probes penetrated the person's skin, left visible

marks or only penetrated the person's clothing, before and after probe removal, as well as any marks, or lack of marks, left by drive stun. Consent should be obtained before photographing personally sensitive areas. All photographs shall be placed into evidence in accordance with Bureau policy.

6.4.4.4.2. Supervisor responsibilities:

6.4.4.4.2.1. Verify evidence of CEW deployment is collected, including photographs of tags, cartridges, and probes.

6.4.4.4.2.2. Verify appropriate medical services are summoned, if necessary.

6.4.5. *Canine Deployment*.

6.4.5.1. Authorized Uses.

6.4.5.1.1. To protect the canine officer, the police canine or members of the community from an immediate threat.

6.4.5.1.2. To apprehend or control subjects reasonably believed to be involved in a crime.

6.4.5.1.3. To apprehend a fleeing criminal subject when the canine officer reasonably believes that probable cause exists to arrest a subject for a crime.

6.4.5.1.4. To apprehend hiding subjects when it would be unsafe for officers to proceed into an area.

6.4.5.1.5. Members shall refer to the Canine Unit SOPs for additional guidance.

6.4.5.2. Restricted Uses.

6.4.5.2.1. Members shall not use canines for crowd control or management purposes.

6.4.6. *Riot Control Agents (RCAs) or Area Impact Munitions*.

6.4.6.1. Authorized Uses in Crowd Control.

6.4.6.1.1. Under the direction of the Crowd Management Incident Commander (CMIC), to disperse a crowd, when a demonstration or event becomes a civil disturbance, as defined in Directive 635.10, Crowd Management/Crowd Control.

6.4.6.1.2. To stop or disrupt a group of individuals committing a crime or about to commit a crime, when other more discriminate methods are not feasible or reasonable, and uninvolved parties are unlikely to be subjected to the use of force.

6.4.6.1.3. When a person(s) engages in physical resistance or indicates the intent to engage in physical resistance.

6.4.6.1.4. In exigent circumstances to defend the member or others from physical injury when other, more discriminate methods of applying force are not feasible and uninvolved parties are unlikely to be subjected to the use of force.

6.4.6.2. Restricted Use.

6.4.6.2.1. Members shall not use RCAs or area impact munitions on a crowd engaged in passive resistance that does not impede a lawful objective.

6.4.6.2.2. Members shall not deploy RCAs or area impact munitions to disperse a crowd when avenues of escape are unavailable to the crowd.

6.5. Restraint Device.

6.5.1. *Hobble Restraint.*

6.5.1.1. Authorized Uses.

6.5.1.1.1. To control a subject beyond the capability of handcuffs.

6.5.1.1.1.1. The hobble restraint may be used to supplement handcuffs. It shall not be used in lieu of handcuffs.

6.5.1.1.2. If a subject has demonstrated the intent to slip their handcuffs to the front, hobble restraints may be used on the upper arms or legs to prevent such an action.

6.5.1.1.3. Hobble restraints (straight leg restraint) may be used to secure a combative subject's legs together to prevent kicking.

6.5.1.1.4. A hobble may be used to secure an animal.

6.5.1.2. Restricted Uses.

6.5.1.2.1. Members shall not use the maximum restraint technique (i.e., securing a subject's knees or ankles in a straight leg restraint, then fastening the hobble to the handcuffs).

6.5.1.2.2. Once secured, a subject shall not be placed on their stomach for an extended period. If feasible, the subject should be placed the subject's side or in a seated position.

7. **Police Vehicle Intervention Strategies.**

7.1. Intentional contact between a police vehicle and another occupied vehicle shall constitute a use of force for purposes of this policy. These techniques include, but are not limited to, Pursuit Intervention Technique maneuver (PIT), boxing in, and ramming.

7.2. Use of vehicle intervention strategies shall require use of force reporting and After Action review pursuant to the reporting sections in this directive. Members should refer to the applicable force categories for reporting requirements.

7.3. Members shall refer to Directive 630.05, Vehicle Interventions and Pursuits, for additional guidance on the authorized use of these vehicle intervention strategies.

8. **Deadly Force.**

8.1. Authorized uses of deadly force:

8.1.1. Members may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or serious physical injury; or,

8.1.2. If necessary to prevent escape, a member may use deadly force where the member has probable cause to believe that the subject has committed a felony crime involving the infliction or threatened infliction of serious physical harm, and the member reasonably believes the subject poses an immediate threat of death or serious physical injury to the member or others.

8.2. The member shall give a verbal warning to the subject, if time, safety, and circumstances permit.

8.2.1. Members should be mindful of the risks inherent in employing deadly force, which may endanger others. Reckless or negligent use of deadly force is not justified in this Directive or state statute.

8.2.2. Cover fire shall be investigated as a Category I use of deadly force and is only authorized if the member reasonably believes that an immediate threat of death or serious physical injury exists.

8.3. Restrictions on the use of firearms as deadly force:

8.3.1. Members are prohibited from firing warning shots.

8.4. Additional authorized uses for firearms:

8.4.1. A member is authorized to discharge a firearm to stop an aggressive animal that poses a danger to the member or others or end the suffering of a badly injured animal. Members shall refer to Directive 631.70, Investigation of Animal Problems, for additional guidance.

8.5. Moving Vehicles.

8.5.1. A moving vehicle does not presumptively constitute a deadly force threat.

8.5.2. Members shall not shoot at a moving or fleeing vehicle unless an immediate risk of death or serious physical injury to the member or others exists.

8.5.3. Members are prohibited from intentionally positioning themselves in the path of a moving vehicle or in a location that is clearly vulnerable to vehicular attack.

8.5.4. When feasible, members shall move out of the path of a vehicle rather than discharging a firearm at the vehicle or its occupants.

8.5.5. Members shall consider whether the threat to the member or other persons (including all vehicle occupants) is increased by incapacitating the vehicle operator. If the operator is incapacitated, the unguided vehicle may remain a threat to anyone in its path. Members shall weigh the threat of incapacitating the driver against the threat posed by allowing the driver to maintain control of the vehicle.

8.5.6. Members must be aware that shooting at a moving vehicle presents unique challenges of target and backstop.

8.5.7. Members must be aware that shooting from a moving vehicle creates additional challenges of stability and aiming that must be considered in the decision to employ deadly force.

8.5.8. Members shall not use poor tactics or positioning as justification for shooting at or from a moving vehicle.

8.5.9. Members are prohibited from entering an occupied vehicle that is readily capable of being driven (i.e., engine running or keys in the ignition) without substantial justification.

8.6. Members shall refer to Directives 1020.00, Weapons Administration, and 1021.00, Weapons Qualifications, for additional guidelines regarding the issuance, qualification requirements, and secure storage of Bureau-issued weapons.

9. **Post-force Medical Requirements.**

9.1. Members shall summon medical services at the earliest available opportunity when a subject is injured, complains of injury following any use of force, or is a person in a prohibited category (i.e., children under the age of fifteen; an individual who is known to be, or is obviously pregnant; a person who is known to be, or is obviously medically fragile) who sustains Category I through III force (See Section 10). If an individual refuses medical evaluation, the refusal must be documented in an appropriate report. Members shall refer to Directive 630.45, Emergency Medical Custody Transports, for additional guidance.

9.2. When safe to do so, members shall render emergency first aid within the limits of their individual skills, training and available equipment until professional medical care providers arrive on the scene.

9.3. The member shall continually monitor the person for changes in skin or lip color, breathing and levels of consciousness. If the individual's condition deteriorates, the member shall immediately notify Emergency Medical Services (EMS).

9.4. Members shall provide known and reasonably necessary information to facilitate the injured person's transport to a medical facility for additional treatment if recommended by EMS. Refer to Directive 630.45, Emergency Medical Custody Transports, for additional guidance on transporting injured subjects.

9.5. When transporting a person from hospital treatment to a correctional facility, members shall notify a corrections staff member of the extent of the person's injuries and medical treatment given, and provide the corrections staff with the person's medical release forms from the medical facility.

9.6. If a person complains of or appears to be experiencing respiratory distress (e.g., positional asphyxia), members shall perform the following as soon as practical:

9.6.1. If a member's body weight is impeding a subject's breathing, the member shall remove their body weight.

9.6.2. Summon EMS.

9.6.3. Check and continue to monitor the person's breathing and pulse until EMS arrives.

9.6.4. If medically appropriate, place the person in a seated position or position the person on their side to facilitate breathing.

9.7. Members shall follow protocols developed by the Bureau, in conjunction with medical professionals, on their responsibilities following CEW use. Conditions requiring medical treatment after deployment:

9.7.1. When a CEW is deployed in probe mode:

9.7.1.1. If the probes are embedded in the skin, Portland Fire and Rescue shall be summoned to remove the probes and provide medical treatment, if necessary. If the CEW is deployed outside of Portland Fire and Rescue's response area and medical treatment is mandated by this Directive or other injury, the fire department or EMS with jurisdiction shall be summoned.

9.7.1.2. Portland Fire and Rescue shall be the first responder to CEW deployments that require only the removal of probes and no other medical treatment, other than removal and treatment of the wound caused by the CEW probes. To ensure a response from Portland Fire and Rescue only, members must advise the Bureau of Emergency Communications that Portland Fire and Rescue is needed to remove the CEW probes.

9.7.2. When the CEW is deployed on a person in drive stun mode and no probes are deployed, EMS is not required on the scene, unless medical treatment is otherwise necessary.

9.7.2.1. Members shall summon EMS if the CEW is deployed in drive stun mode on a person in a prohibited category (i.e., children under the age of fifteen; an individual who is known to be, or is obviously pregnant; a person who is known to be, or is obviously medically fragile).

9.8. When any force is used on a person suffering or perceived to be suffering from excited delirium (before, during or after the application of force), members shall summon EMS to the scene. Members shall ensure the subject is examined at the scene. If in custody and EMS recommends transport, the subject will be transported to the hospital. If not in custody, and EMS declares the individual mentally competent, the individual can refuse treatment and transport.

10. **Categories of Review.**

10.1. Reporting and investigating requirements are determined by the type of force deployed, injury sustained, and/or complaint of injury. A supervisor who receives notification of a use of force shall respond to the scene to determine the appropriate level of investigation pursuant to the categories listed below. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.

10.2. Category I: The application of deadly force, an in-custody death, and death that occurs as a result of member(s)' use of force.

10.2.1. Category I force includes, but is not limited to:

10.2.1.1. All critical firearm discharges by a member, except as authorized to stop an aggressive animal or end the suffering of a badly injured animal.

10.2.1.2. In-custody deaths;

10.2.1.3. Death as a result of member(s)' use of force;

10.2.1.4. Carotid neck holds; and

10.2.1.5. All intentional head, neck, and throat strikes with a hard object or when a member strikes the head of a subject against a hard object.

10.2.2. Category I Review.

10.2.2.1. The level of investigative response for Category I Force is governed by Directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures.

10.3. Category II: Other than deadly force, force resulting in hospital treatment or admission; force that is reasonably likely to cause enduring: pain, physical injury, disability or impairment of any body part, but does not result in death.

10.3.1. Category II force includes, but is not limited to:

10.3.1.1. All uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospital treatment, or an injury deemed to be serious by a member's supervisor;

10.3.1.2. Any uses of force by a member on a subject that require hospital admission due to the force applied by a member;

10.3.1.3. More than one simultaneous intentional CEW application on a subject at a time;

10.3.1.4. Three or more CEW applications to the same person;

10.3.1.5. CEW deployments on individuals who have an actual or perceived mental illness, or who are in mental health crisis;

10.3.1.6. All launched impact munitions with contact;

10.3.1.7. Impact weapon, with injury requiring hospital treatment;

10.3.1.8. Firearm discharges to stop an aggressive animal;

10.3.1.9. Canine bites;

10.3.1.10. Takedown that causes injury requiring hospital treatment;

10.3.1.11. Riot control agents and/or area impact munitions;

10.3.1.12. Force used upon restricted persons (i.e., children under the age of fifteen, pregnant individuals, medically fragile);

10.3.1.13. Force resulting in a loss of consciousness;

10.3.1.14. Any strike, blow, kick or similar use of force against a handcuffed, otherwise restrained, under control, or in-custody subject, with or without injury; and

10.3.1.15. Ramming as a vehicle intervention strategy.

10.3.2. Category II Review.

10.3.2.1. For all force resulting in hospital admission, supervisors shall notify the Detective Division of the incident, and a detective shall respond to assist in the investigation of the use of force. The involved member's supervisor shall complete the use of force After Action report.

10.3.2.2. For all force involving more than one simultaneous intentional CEW application on a subject, supervisors shall notify the Detective Division of the incident, and a detective may respond to assist in the investigation of the use of force. The involved member's supervisor shall complete the use of force After Action report.

10.3.2.3. The use of force After Action report shall be reviewed through the chain of command, up to and including the Assistant Chief.

10.4. Category III: Force that is reasonably likely to cause non-enduring: pain, disorientation, physical injury, or the complaint of pain.

10.4.1. Category III force includes, but is not limited to:

10.4.1.1. CEW deployment of one (1) or two (2) applications;

10.4.1.2. CEW deployment regardless of successful application or member intent;

10.4.1.3. Use of aerosol restraints;

10.4.1.4. Chemical agents used by SERT;

10.4.1.5. Use of impact weapon, without injury;

10.4.1.6. Physical injury or complaint of injury;

10.4.1.7. Complaint of improper force;

10.4.1.8. Launched impact munitions, without contact;

10.4.1.9. Takedown;

10.4.1.10. Strikes with the hands or feet; and

10.4.1.11. PIT maneuver as a vehicle intervention strategy.

10.4.2. Category III Review.

10.4.2.1. The use of force After Action report shall be reviewed through the chain of command, up to and including the RU Manager.

10.5. Category IV: Force that is intended to establish control of a resistant subject, though not intended or reasonably likely to cause persistent pain or physical injury.

10.5.1. Category IV force includes, but is not limited to:

10.5.1.1. Non-striking use of baton;

10.5.1.2. Takedown performed in a completely controlled manner where there is minimal resistance and no injury;

10.5.1.3. Handcuffing against resistance or control against resistance;

10.5.1.4. Pointing of a firearm;

10.5.1.5. Use of hobble restraint;

10.5.1.6. Use of a less lethal weapon to stop a vicious or aggressive animal;

10.5.1.7. Firearm discharges to end the suffering of a badly injured animal; and

10.5.1.8. Boxing In maneuver as a vehicle intervention strategy.

10.5.2. Category IV Review.

10.5.2.1. The use of force After Action report shall be reviewed through the chain of command, up to and including the Sergeant's immediate supervisor.

10.6. Additional Considerations.

10.6.1. Supervisors have the discretion to elevate the category of any force investigation.

10.6.2. When multiple force options are used during an incident, the investigation shall be conducted at the highest applicable category.

10.6.3. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.

10.6.4. An on-scene supervisor who reasonably believes that a use of force involves significant misconduct by a member shall immediately notify their immediate supervisor and PSD. The on-call PSD Lieutenant shall determine the degree of investigation required.

10.6.5. Force incidents that involve a vehicle may be classified under any category of force; the appropriate category will be determined by a member's supervisor

and will depend on the totality of the circumstances. Refer to Directive 630.05, Vehicle Interventions and Pursuits, for additional guidance.

10.6.6. Specialty units, such as the Special Emergency Response Team (SERT), Rapid Response Team (RRT) or others, are not exempt from use of force reporting procedures, as defined in this directive.

11. **Reporting**

11.1. Member Reporting of Force.

11.1.1. Members shall immediately notify a supervisor regarding any use of force, or any negligent or unintentional discharge of a less lethal weapon.

11.1.2. All members will notify a supervisor as soon as practical when a complaint of improper force, a complaint of physical injury, or actual injury to a subject in custody as defined within this Directive occurs or they become aware of the same.

11.1.3. All members involved in a Category II through IV use of force shall provide a candid and detailed verbal account of the event at the scene.

11.1.4. All members involved in a Category II through IV use of force shall submit use of force reports in a timely manner, which include a candid and detailed account of the event, to facilitate a thorough review of the incident in question by supervisory members. Involved members shall submit use of force reports prior to the conclusion of the shift, unless incapacitated. Involved members shall report all uses of force whether or not the subject is struck or affected by any weapon.

11.1.4.1. Members who use force in any police action while off duty shall comply with the reporting requirements of this section.

11.1.5. Members involved in a Category I use of force shall refer to Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, for reporting and investigation requirements for deadly force incidents.

11.1.6. All members who witness any use of force shall provide a candid and detailed verbal account of the event at the scene. Members who witness a Category I through III use of force shall also submit appropriate reports in a timely manner, which include a candid and detailed account of the event, to facilitate a thorough review of the incident in question by supervisory members. Witness members shall submit reports prior to the conclusion of the shift, unless incapacitated. Witness members shall report all uses of force whether or not the subject is struck or affected by any weapon.

11.1.7. Reports shall demonstrate that the member(s) made diligent efforts to locate witnesses and explain when circumstances prevented them from doing so or obtaining contact information. Reports shall also include all available identifying information for anyone who refuses to provide a statement.

11.1.8. All reports related to use of force shall follow Directive 900.00, General Reporting Guidelines, regarding formatting, timeliness of completion, and submission.

11.1.9. In addition to those guidelines, regardless of force category or type, involved members shall also include a description of the following in their use of force reports:

11.1.9.1. The reason for the initial police presence.

11.1.9.2. The unique characteristics of the event.

11.1.9.3. Whether the individual or subject was known by the member to be mentally ill or in mental health crisis. If mental illness was present, members shall describe how they took that into account and how it impacted their decision making.

11.1.9.4. A description of the decision-making at each significant point leading up to and during the event.

11.1.9.5. The force used, to include descriptive information regarding the use of any weapon.

11.1.9.6. Any observable injury to the subject, any complaint of injury or the absence of injury, including information regarding any medical aid or on-scene medical evaluation provided or refused by the subject, when applicable.

11.1.9.7. The level of resistance encountered by each officer that led to each separate use of force and, if applicable, any injuries to the subject(s) or member(s).

11.1.9.8. What, if any, de-escalation techniques were used and whether or not they were effective. If not used, the member shall provide justification as to how time and circumstances did not reasonably permit the member to utilize de-escalation techniques.

11.1.9.9. Members shall include all relevant considerations found within this, and other appropriate, directives in their reports.

11.1.10. For force Categories I through III, members shall provide a narrative account of the force they observed another member apply.

11.1.10.1. Members shall immediately notify an on-duty supervisor of any use of force by another member that violates the constitutional standard as soon as safe to do so.

11.2. Additional Reporting Guidelines for Less Lethal Weapon & Munition Use.

11.2.1. The member shall complete and submit a use of force report documenting the incident. The use of force report shall contain:

11.2.1.1. The specific circumstances that led to the discharge of the weapon.

11.2.1.2. The name of the supervisor who was verbally notified, as well as the name of the responding supervisor, if different.

11.2.1.3. A description of the warning given. If no warning was given, members shall state why.

11.2.2. If the member who discharged the weapon is injured and unable to submit a use of force report, the reporting requirement for involved members can be delayed until the member is capable of completing the report. The member shall, in a timely manner, provide their supervisor with a Work Status Report which identifies any restrictions or limitations on the member until a specified date.

11.2.3. Reporting of CEW Use.

11.2.3.1. The report shall document:

11.2.3.1.1. The specific circumstances leading to the use of the CEW.

11.2.3.1.2. All warnings given to members and the subject. If no warnings were given, members shall document their justification for not issuing a warning.

11.2.3.1.3. The distance from which the CEW was used.
11.2.3.1.4. The location on the subject's body of the probe strike and the impact points.
11.2.3.1.5. The serial numbers of all cartridges expended.
11.2.3.1.6. The serial number of the CEW used.
11.2.3.1.7. The name of the member designated as immediate cover, if applicable or present.
11.2.3.1.8. The name of the supervisor who was verbally notified as well as the responding supervisor, if different.
11.2.3.1.9. Whether EMS responded and the results of any medical evaluation, if applicable. If EMS was not summoned, the member shall provide a justification.
11.2.3.1.10. Any evidence or complaints of injury or illness by the subject.

11.2.4. Reporting of Canine Use.
11.2.4.1. Canine handlers shall also complete a use of force report for all bites.
11.2.4.2. Canine unit supervisors shall complete an After Action report for all directed and unintentional canine bites through channels to the appropriate Assistant Chief.

12. **Supervisor Reporting and Investigation.**

12.1. A supervisor who receives notification of a use of force shall respond to the scene unless extraordinary circumstances exist. In rare circumstances, safety or other practicality reasons may prevent a supervisor from responding directly to the scene, and instead necessitate that the supervisor respond to a proximate location.

12.2. Where necessary, the supervisor shall ensure that the subject upon whom force was used receives medical attention from an appropriate medical provider.

12.3. The supervisor shall conduct an administrative review and a thorough investigation of the use of force, consistent with this policy, gathering applicable evidence described in Section 13.4. of this policy.

12.3.1. If a supervisor is involved in the use of force, they shall contact another supervisor to conduct the administrative review of the incident.

12.4. Supervisors shall personally speak to the involved member and make an inquiry sufficient to determine the nature of the event and the member's justification for the use of force.

12.5. Supervisors shall personally speak to the witness member(s) and make an inquiry sufficient to describe the nature of the force.

12.6. Supervisors shall interview members and witnesses individually and not in groups.

12.7. Supervisors shall make diligent efforts to document witness observations.

12.8. Supervisors shall immediately notify the shift supervisor and PSD regarding any use of force that could appear, to a reasonable supervisor, to violate the Constitutional Force standard; all members' Serious Use of Force; any use of force against persons who have actual or perceived mental illness; or any suspected significant member misconduct.

12.9. In the event that the supervisor suspects possible criminal conduct, the supervisor shall notify their shift supervisor, the on-call PSD Lieutenant, the branch Assistant Chief, and the Bureau's Detective Division.

13. **Force After Action Reports.**

13.1. For Category II-IV force incidents, the supervisor shall document the findings of the review and investigation in an After Action report, and forward the report through the chain of command.

13.2. The After Action report form serves as a checklist to ensure that supervisors carry out force investigation responsibilities. The Inspector, or Chief's designee, shall review the form for adequacy and relevance, at least annually, and revise as needed.

13.3. For Category II-IV force incidents, supervisors shall complete an After Action report within 72 hours of the use of force.

13.4. All force After Action reports or, in use of deadly force incidents, the investigator's report shall contain a detailed description and comprehensive account of the force. The report(s) shall include:

13.4.1. Summary: a short one or two paragraph narrative that describes the significant facts of the event.

13.4.2. Involved Member statement: a narrative that describes the use of force.

13.4.3. Investigation: a description of what actions supervisors took and directions they gave on scene.

13.4.4. Discussion of force: a description of the nature of the force and the member's justification for the use of force.

13.4.5. Injuries: a description and photographs of the presence or absence of injuries to the subject or Bureau member involved in the use of force and if any medical treatment was administered, and by whom.

13.4.6. Subject statement: supervisors shall make an attempt to obtain a statement from the subject detailing the event and any injuries.

13.4.7. Witness Member statement: supervisors shall obtain a statement from the witness member(s) detailing their observation of the event.

13.4.8. Non-member witness statements: supervisors shall make an attempt to locate witnesses to the event and obtain and document complete statements. If any information from the witness statements needs to be documented in a criminal report, the supervisor shall ensure that the witness statements are documented in the appropriate report. Supervisors shall document circumstances that prevent them from identifying witnesses or obtaining contact information.

Reports shall include all available identifying information for anyone who refuses to provide a witness statement.

13.4.9. Physical evidence: supervisors shall ensure that the administrative review includes collecting any physical or photographic/video evidence that may assist other reviewers in the chain of command in understanding the scene and event.

13.4.10. Critique Findings and Recommendations: the critique of findings and recommendations shall contain a thorough analysis of the incident. It shall address any applicable directives, whether or not members complied with such directives and any recommendations or actions taken to address issues encountered on-scene or during the reporting process. Supervisors may also modify findings as appropriate and document modifications.

13.4.10.1. The authoring supervisor shall:

13.4.10.1.1. Review all use of force reports to ensure that they include information required per Bureau policy;

13.4.10.1.2. Evaluate the weight of the evidence;

13.4.10.1.3. Use a decision-point approach to analyze each use of force;

13.4.10.1.4. Determine whether the member's actions appear consistent with Bureau policy;

13.4.10.1.5. Determine whether there was legal justification for the original stop and/or detention;

13.4.10.1.6. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed; and

13.4.10.1.7. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that they discuss poor tactical decisions with the member and that the discussion is documented in the Employee Information System (EIS).

13.4.10.2. Supervisors in the chain of command review shall:

13.4.10.2.1. Ensure the authoring supervisor met all the requirements of 13.4.10.;

13.4.10.2.2. Review after action report findings using a preponderance of the evidence standard;

13.4.10.2.3. Review after action reports to ensure completeness and order additional investigation, when necessary;

13.4.10.2.4. Assess the incident for tactical and training implications, including whether the use of force may have been avoided through the use of de-escalation techniques or less force options;

13.4.10.2.5. Modify findings as appropriate and document modifications;

13.4.10.2.6. Order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the findings and counsel the investigator;

13.4.10.2.7. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed;

13.4.10.2.8. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that the

authoring supervisor discusses poor tactical decisions with the member and that the discussion is documented in EIS;

13.4.10.2.9. Suspend an investigation immediately and notify the branch Assistant Chief, the on-call PSD Lieutenant and the Detectives Division whenever the investigation supervisor, shift commander or Division commander finds evidence of apparent criminal conduct by a member; and

13.4.10.2.10. Report a matter to the on-call PSD Lieutenant for review and investigation whenever an investigating supervisor, shift commander or precinct commander finds evidence of significant misconduct by a member or employee.

13.4.10.3. The use of force After Action report shall be completed through the RU within twenty-one days of the event.

13.5. If a supervisor determines that there were performance deficiencies not rising to the level of misconduct, supervisors shall determine whether additional training or counseling is warranted. The Bureau shall provide such counseling or training, consistent with Bureau policies.

13.6. Supervisors shall ensure that EIS tracks all comments, findings, and corrections related to the After Action Reports. Members shall refer to Directive 345.00, Employee Information System (EIS), for additional guidelines.

13.7. All supervisors in the chain of command shall be held accountable for inadequate reports and analysis. As a result, all supervisors shall be subject to corrective action or discipline for the accuracy and completeness of After Action reports completed by other supervisors under their command. Corrective or disciplinary action may include training, demotion, and/or removal from a supervisory position, based on repeated deficient after action reviews at any level of command.

13.8. When, after investigation, a use of force is found to violate policy, the Bureau shall ensure that investigative findings regarding member misconduct are adequately addressed and that appropriate corrective action is taken fairly and expeditiously to resolve the issue.

13.9. Where the use of force indicates policy, training, tactical or equipment concerns, the immediate supervisor shall notify, through channels, the Inspector and the Chief, who shall ensure that the Bureau timely conducts necessary training and/or resolves the policy, tactical or equipment concern.

13.10. The Chief, or designee, and the PSD have the discretion to reassign a use of force investigation to the Detective Division or any Bureau supervisor, thereby taking it out of the after action chain of command as described.

13.11. The Inspector's Office shall routinely audit force-related After Actions and the associated reports. The Chief, or a designee, shall refer to the Inspector's audits to

identify trends related to deficient reporting and investigations or problematic use of force patterns. The Chief, or a designee, shall take appropriate corrective action throughout the chain of command when use of force reports, force investigations conducted by supervisors, force-related After Action reports and Command reviews are not completed in accordance with Bureau policy and practices.

13.12. The RU Manager shall ensure that the narrative section of the use of force After Action report is forwarded to the Multnomah County District Attorney's Office in a timely fashion.

13.13. Additional Supervisor Reporting Responsibilities.

13.13.1. An on-duty supervisor shall respond to the scene of all negligent or unintentional discharges of a firearm and notify the Detective Division, which will assume investigative responsibility, except at Bureau authorized training events, where no injury occurs. At training events, as long as no injury occurs, the Training Division shall have responsibility for investigating and reporting the negligent discharge.

13.13.2. An on-duty supervisor shall investigate all negligent or unintentional discharges of less lethal weapons and document the incident in an after action report.

13.13.2.1. Supervisors shall investigate negligent or unintentional discharges of less lethal weapons that strike another person in the same manner as a use of force.

History:

- Originating Directive Date: 01/01/14
- Last Revision Signed: 12/20/19
  - Effective Date: 01/19/20
- Next Review Date: 01/19/21

1010.00, Use of Force

Refer:

- *Graham* v. *Connor*, 490 U.S. 386 (1989)
- ORS § 161.015, General Definitions
- DIR 315.30, Satisfactory Performance
- DIR 330.00, Internal Affairs, Complaint Intake and Processing
- DIR 333.00, Criminal Investigations of Police Bureau Employees
- DIR 345.00, Employee Information System
- DIR 416.00, ~~Post Officer Involved Deadly Force/~~Critical Incident - Temporary Altered Duty
- DIR 630.05, Vehicle Interventions and Pursuits
- DIR 630.45, Emergency Medical Custody Transports
- DIR 630.50, Emergency Medical Aid
- DIR 631.70, Investigation of Animal Problems
- DIR 635.10, Crowd Management/Crowd Control
- DIR 640.02, Photography and Digital Imaging
- DIR 850.20, Mental Health Crisis Response
- DIR 900.00, General Reporting Guidelines
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1020.00, Weapons Administration
- DIR 1021.00, Weapons Qualifications
- PPB Canine Unit Standard Operating Procedures

Definitions:

- Active Aggression: A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is about to happen, unless intervention occurs.

- Administrative Review: A written determination that requires the gathering and evaluating of information to develop a course of action.

- After Action Report: A written report that describes a police action and assesses its adherence to policy through critique and evaluation using required criteria.

- Arcing: Activating a conducted electrical weapon (CEW) without discharging the probes or making contact with a subject, to serve as a warning to the subject.

- Boxing In: A coordinated tactic of ~~positioning~~making contact between police vehicles ~~around~~and a subject's vehicle to stop or prevent the start of a pursuit.

- Complaint of Improper Force: A complaint by a subject or person at the scene, or while in police custody, of improper force during a police action. Complaints of improper force include complaints of inappropriate and/or excessive force.

- Complaint of Physical Injury: An assertion by a person that a member caused the person physical injury.

- Conducted Electrical Weapon (CEW): A weapon, including Tasers, designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses.

- CEW Application: The contact and delivery of an electrical impulse to a subject using a CEW.

- CEW Cycle: An activation of the CEW for a duration of up to five seconds.

- Constitutional Force Standard: Under *Graham v. Connor* and subsequent cases, the federal courts have established that government use of force must comply with the "reasonableness" requirement of the Fourth Amendment. Under this standard, members must choose from the objectively reasonable force options at a scene. See the definition of "objectively reasonable" below.

- Cover Fire: When a member discharges a firearm in a tactical situation in response to the ongoing threat of the use of deadly physical force by a subject, and direct action against the subject is not feasible. Cover fire is not intended to strike a subject, but is meant only to prevent a subject from taking further action against the police or others that could result in death or serious physical injury. Cover fire can be dangerous and must be used with extreme caution. Cover fire is also intended to allow officers to take actions to resolve the situation, such as effecting a rescue, advancing or retreating, or delivering chemical agents.

- Critical Firearm Discharge: Each discharge of a firearm by a member. This term includes discharges at persons where no one is struck. This term is not intended to include discharges at the range or in training, or negligent discharges not intended as an application of force, which are still subject to administrative investigation.

- Deadly Force, also known as Lethal Force: Any use of force likely to cause death or serious physical injury, including the use of a firearm, carotid neck hold, or strike to the head, neck or throat with a hard object.

- De-escalation: A deliberate attempt to prevent or reduce the ~~necessity or intensity~~amount of force necessary to resolve the confrontation.

- Drive Stun: The process of applying energy to a subject through the terminal on a cartridge or conducted electrical weapon.

- Force: Physical coercion used to effect, influence or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. Control holds and handcuffing without resistance do not constitute force.

- Immediate Cover: A member who stands ready to deploy additional control if needed (e.g., the CEW is ineffective or it fails to function properly).

- Improper Use of Force: The application of force where there is insufficient justification for its use, where the use of force is more than is objectively necessary or that violates policy.

- Involved Member: For the purposes of this directive, 1010.00, Use of Force, an involved member is a Bureau member who is involved in the application of force or directs another to use force.

- Less Lethal Force: A force application that is not intended or expected to cause death or serious injury and that is commonly understood to have less potential for causing death or serious injury than conventional, more lethal police tactics. Nonetheless, use of less-lethal force can result in death or serious injury.

- Less Lethal Weapons: Weapons designed and intended to apply less lethal force. These weapons include, but are not limited to, CEWs, impact weapons, impact munitions, aerosol restraints.

- Mental Health Crisis: An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress (e.g., anxiety, depression, anger, fear, panic, hopelessness), a thought disorder (e.g., visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment), obvious changes in functioning (e.g., neglect of personal hygiene) and/or catastrophic life events (e.g., disruptions in personal relationships, support systems or living arrangements; loss of autonomy or parental rights; victimization or natural disasters), which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.

- Mental Illness: Health conditions that are characterized by ~~alternations~~alterations in thinking, mood, or behavior (or some combination thereof) associated with distress and/or impaired functioning. ~~Alternations~~Alterations in thinking, mood, or behavior contribute to a host of problems-patient distress, impaired functioning, or heightened risk of death, pain, disability, or loss of freedom.

- Misconduct: Conduct by a member that violates Bureau regulations, orders, directives, or other standards of conduct required of City employees.

- Necessary: No objectively reasonable effective alternative exists to affect a lawful purpose.

- Non-Disciplinary Corrective Action: Action other than discipline taken by a PPB supervisor to enable or encourage a member to improve their performance.

- Objectively reasonable: The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20

hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, uses of the terms reasonable and reasonably in this policy refer to objective reasonableness.

- Passive Resistance: A person's non-cooperation with a member that does not involve violence or other active conduct by the individual.

- Physical Injury: As defined in ORS § 161.015 (7), the impairment of a person's physical condition or causing a person substantial pain. Substantial pain refers to degree and duration of the pain suffered by the victim; the pain must be considerable and must be more than momentary.

- Physical Resistance: A person's physical attempt to evade a member's control that does not rise to the level of active aggression.

- Probe Cartridge: A device that contains two probes connected to light gauge wire that is propelled and attaches to the subject upon activation of the CEW.

- Pursuit Intervention Techniques (PIT): A driving technique designed to stop a fleeing motorist safely and quickly by making contact with the fleeing car at a specific point on the vehicle, which throws the car into a spin and brings it to a stop.

- Ramming: The use of an emergency (police) vehicle, other than in a pursuit intervention technique or boxing-in maneuver to purposely cause contact with another vehicle in order to disable the vehicle.

- Serious Physical Injury: As defined in ORS § 161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ.

- Serious Use of Force: (1) all uses of force by a member that reasonably appear to create or do create a substantial risk of death, serious disfigurement, disability, or impairment of the functioning of any body part or organ; (2) all critical firearm discharges by a member; (3) all uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospitalization, or an injury deemed to be serious by a member's supervisor; (4) all head, neck and throat strikes with an object or carotid neck holds; (5) force used upon juveniles known or reasonably assumed to be under fifteen or individuals known or reasonably assumed to be pregnant; (6) all uses of force by a member resulting in a loss of consciousness; (7) more than two applications of a CEW on an individual during a single interaction, regardless of the mode or duration of the application, regardless of whether the applications are by the same or different officers, and regardless of whether the CEW application is longer than 15 seconds, whether continuous or consecutive; (8) any strike, blow, kick, electronic control weapon system cycle, or similar use of force against a

handcuffed, otherwise restrained, under control, or in custody subject, with or without injury; and (9) any use of force referred by a member's supervisor to Professional Standards Division (PSD) which PSD deems serious.

- Takedown: Physical coercion used by a member to affect, direct, or influence a person to go to the ground not under their own control.

- Warning shot: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

- Witness member: For the purposes of this directive, 1010.00, Use of Force, a witness member is a Bureau member who observes or has firsthand knowledge of the events surrounding the use of force by another member, and other than observing the incident, did not use force themselves. Additionally, a member who observes or has knowledge of the events surrounding a member's direction to another to use force.

Policy:

1. The Portland Police Bureau is committed to upholding the civil rights of all individuals, protecting human life and property, and maintaining civil order. The Bureau's commitment to public safety includes ensuring the welfare of members of the public, its officers and professional staff, with an emphasis on the sanctity of life and policing with respect.

2. The Portland Police Bureau recognizes that this commitment may require members to use force. The community expects and the Portland Police Bureau requires that members use only the objectively reasonable force necessary to perform their duties and overcome the threat or resistance of the subject under the totality of the circumstances. Members who violate these values by using objectively unreasonable force erode the confidence of the community and may expose themselves, those present, and the greater population to unnecessary danger; thus, objectively unreasonable uses of force shall result in corrective action and/or discipline, up to and including termination.

3. While the ultimate objective of every law enforcement encounter is to protect the public, nothing in this policy requires a member to retreat or be exposed to possible physical injury before applying reasonable force.

4. Over the course of their careers, the Bureau expects members to develop and use skills and abilities that allow them to regularly resolve confrontations while minimizing the need to use force. Members are to be aware that this Directive is more restrictive than state or federal laws.

5. The Bureau is dedicated to providing training in all categories of force and de-escalation techniques, as well as providing sufficient resources, to help members safely and effectively resolve confrontations through the application of de-escalation tools and lower levels of force. When feasible, members are expected to use de-escalation tactics in order to avoid the need for or reduce the amount of force. However, the Bureau recognizes that each situation

is unique and presents its own challenges. Members are expected to adapt and apply Bureau ~~core~~ training principles reasonably in unanticipated situations.

6. Members shall attempt to avoid or minimize the use of force against individuals in perceived behavioral or mental health crisis or those with mental illness and direct such individuals to the appropriate services, where possible.

7. Member accountability is integral to building and maintaining community trust. The Bureau is committed to institutionalizing systems of accountability and establishing transparent reporting practices. When force is used, the Bureau is dedicated to reviewing, reporting and investigating member actions to determine if the force used was in accordance with Bureau training and policy. This policy establishes reporting and investigative guidelines for all use of force. ~~This policy~~It includes the specific reporting requirements for all force incidents and the completion of police reports and After Action reports, as defined in this Directive.

8. The Bureau recognizes that the use of force may have an emotional impact on all involved. Members are encouraged to take proactive steps to mitigate these impacts through positive interactions with subjects and concerned community members following such an event.

Procedure:

1. **De-escalation:**
   - 1.1. Members shall use ~~disengagement and~~ de-escalation techniques, when time and circumstances reasonably permit. De-escalation techniques provide members the opportunity to stabilize the scene or reduce the necessity for or intensity of force so that more time, options and resources are available to resolve the confrontation. Members shall take proactive steps to eliminate the immediacy of the threat, establish control and minimize the need for force.
     - 1.1.1. De-escalation techniques include, but are not limited to: 1) using verbal techniques to calm an agitated subject and promote rational decision making; 2) allowing the subject appropriate time to respond to direction; 3) communicating with the subject from a safe position using verbal persuasion, advisements, or warnings; 4) decreasing exposure to a potential threat by using distance, cover, or concealment; 5) placing barriers between an uncooperative subject and an officer; 6) ensuring there are an appropriate number of members on scene; 7) containing a threat; 8) moving to a safer position; and 9) avoiding physical confrontation, unless immediately necessary.
     - 1.1.2. When practical and appropriate, members shall consult with and/or call specialized units to respond, including but not limited to those related to behavioral health, tactics and/or negotiation, to assist in de-escalating the situation or devising a disengagement strategy or otherwise assist in safely resolving the incident.
     - 1.1.3. ~~Members~~To avoid confusion, members shall establish and maintain one~~-~~-on-~~-~~one communication with the subject and avoid giving simultaneous directions or having multiple members verbally engaging the subject ~~to avoid confusion~~.

1.2. Members shall consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to: 1) medical conditions; 2) mental impairment; 3) developmental disability; 4) physical limitation; 5) language barrier; 6) drug or alcohol impairment; and 7) mental health crisis.

1.3. Members shall consider a disengagement plan when the benefits to be gained by police intervention are clearly outweighed by the risks associated with the call.

~~1.3.~~1.4. When responding to and managing scenes involving persons in mental health crisis and when time and circumstances permit, members shall consider using disengagement and de-escalation techniques, as well as devising a response plan through the ROADMAP tool. Members shall refer to Directive 850.20, Police Response to Mental Health Crisis, for additional guidance regarding ROADMAP and encounters with individuals with known or perceived mental illnesses or experiencing mental health crisis.

~~1.3.1.~~1.4.1. Tactics in ROADMAP can be used as a stand-alone tactic, or they may be overlapped with other tactics to create a plan. Plans may need to be altered several times during an incident as it evolves, and members should be prepared to switch to other tactics as the totality of the circumstances changes.

~~1.3.1.1.~~1.4.1.1. When safe under the totality of circumstances, members shall consider disengagement as a tactic to reduce undue safety risks to the member, the involved person(s) or others.

~~1.4.~~1.5. When force is used, the amount of force used, including the number of members who use force, shall be reduced as resistance decreases. Only the amount of force reasonably calculated to maintain control shall be used.

~~1.5.~~1.6. Members shall refrain from ~~the use of~~using force against individuals who are already under control by officers or who express verbal discontent with officers, but do not otherwise pose a threat to officers or others, or impede a valid law enforcement function. Members must balance the governmental interest to take action in service of the public against the rights of individuals involved.

2. **Authorized Use of Force.**

2.1. Members are authorized to use force when permitted by this policy in order to:

2.1.1. Prevent or terminate the commission or attempted commission of an offense;

2.1.2. Lawfully take a person into custody, make an arrest or prevent an escape;

2.1.3. Prevent a suicide or serious self-inflicted injury;

2.1.4. Defend the member or other person from the use of physical force; or,

2.1.5. Accomplish some official purpose or duty that is authorized by law or judicial decree.

3. **Warning Issuance.**

3.1. Unless it would present a danger to the member(s) or others, members shall issue a clear and intelligible verbal warning or attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to using any force.

3.1.1. Members shall provide a description of the warning given in their use of force reports. If no warning was given, members shall provide a justification for the lack of warning.

3.1.1.1. No written justification is necessary for the lack of a warning for the following:

3.1.1.1.1. Vehicle intervention techniques; and

3.1.1.1.2. Category IV force.

3.2. Prior to using a less lethal weapon, members shall, when feasible, warn or announce to other members their intent to use the tool, in an attempt to avoid sympathetic fire.

4. **Prohibited Use of Force.**

4.1. Members shall not use force against people who engage in passive resistance that does not impede a lawful objective. Physically moving a subject engaged in passive resistance is permitted when it is necessary and objectively reasonable.

4.2. Members are prohibited from using force for interrogation or torture.

4.3. Under no circumstances will a member use force solely because another member is using force.

5. ***Graham* Standard: Force Performance Requirements.**

5.1. To comply with this Directive and satisfy the constitutional standard, members shall only use force that is objectively reasonable under the totality of circumstances. When determining to use any force, members must balance the individual's Fourth Amendment rights against the government's interest. Members shall at least consider the following three criteria in making a decision to use force:

5.1.1. **Threat**. Whether the individual poses an immediate threat to the safety of the officers or others. The extent and immediacy of the threat are the most important determining factors when considering the need for and type of force that may be reasonable during an encounter.

5.1.2. **Severity**. The severity of the crime at issue.

5.1.3. **Active Resistance or Evading**. Whether the individual is actively resisting control or attempting to evade. When force is used, the amount of force used, shall be reduced as resistance decreases. Only the amount of force reasonably calculated to maintain control shall be used.

5.2. Though the above three factors are of primary consideration, a reasonableness inquiry is not limited to these factors and force will be evaluated under the totality of the circumstances.

5.3. **Member Considerations for Use of Force.**

5.3.1. Members should recognize that their approach to confrontations may influence whether force becomes necessary and the amount force that must be used.

5.3.2. Members must not precipitate a use of force by placing themselves or others in jeopardy through actions that are inconsistent with the Bureau's training without a substantial justification for variation from recommended practices.

5.3.3. When feasible, members shall allow individuals time to submit to arrest before force is used.

5.4. **Other Member Responsibilities.**

5.4.1. Members must individually justify each independent application of force. When feasible, members shall re-evaluate the need for continued force in between independent uses of force.

5.4.2. Members have a duty to reasonably intercede to prevent the use of unlawful force by another member.

5.4.3. Members shall take into account all available information, including observed behavior, reports from other members or witnesses, known mental health history and perceived mental illness or mental health crisis.

5.4.4. During a confrontation with an individual known or perceived to be in mental health crisis, members must recognize and reasonably balance the governmental interest in providing care to the individual with the need for force. Members shall call in specialized units when practical.

5.4.5. Members shall refer to Directive 850.20, Police Response to Mental Health Crisis, for intervention techniques regarding individuals with known or perceived mental illnesses or experiencing a mental health crisis.

6. **Less Lethal Force.**

6.1. Less lethal force provides members with additional tactics or options for managing encounters with ~~confrontational~~threatening or actively resistive subjects. However, members shall consider that the use of less lethal force can still result in death or serious injury.

6.2. Members shall not use less lethal weapons on the following persons unless the person is armed with a dangerous or deadly weapon, or is about to commit suicide, or is in the act of causing harm to themselves or others, or the member has probable cause that the subject has committed a Measure 11 crime:

6.2.1. Children who are known to be, or are obviously under the age of fifteen.

6.2.2. An individual who is known to be, or is obviously pregnant.

6.2.3. A person who is known to be, or is obviously medically fragile.

6.3. Members shall not use any less lethal weapons against individuals who are handcuffed or otherwise restrained, and under control.

6.4. Additional rules for Bureau-authorized less lethal weapons are outlined below:

6.4.1. *Impact Weapons.*

6.4.1.1. Authorized Uses.

6.4.1.1.1. In response to active aggression.

6.4.1.1.1.1. When striking, members should only use the Bureau-issued baton. Use of any other impact tool is strongly discouraged and is appropriate only when the member reasonably believes that other authorized physical force responses are not available.

6.4.1.1.1.2. Members shall make reasonable efforts to ensure that impact weapons are used on preferred target areas, including arms and legs.

6.4.1.2. Restricted Uses.

6.4.1.2.1. Members striking or jabbing with a baton shall not deliberately target the head or throat, neck, spine, or groin unless deadly force would be authorized.

6.4.1.2.1.1. Unintentional or inadvertent strikes to these restricted areas require following all other reporting procedures, with the addition of explicitly verbally notifying a supervisor that this has occurred. Reports must specifically address the circumstances and actions that related to striking restricted areas.

6.4.2. *Impact Munitions*.

6.4.2.1. Authorized Uses.

6.4.2.1.1. In response to active aggression;

6.4.2.1.2. To prevent suicide or immediate physical harm when reasonable in light of available options;

6.4.2.1.3. To avoid the use of a higher level of force; or,

6.4.2.1.4. To effect the capture or prevent the escape of a subject when the member reasonably believes that the subject presents an immediate risk of physical injury to the public, members or themselves, or the escape of the subject presents a significant danger to the public, members or themselves. Mere flight from an officer is not sufficient cause for the use of the impact munitions.

6.4.2.1.5. Members shall make reasonable efforts to ensure that impact munitions are used on preferred target areas. Under seven yards, members will aim for the legs. Over seven yards, members will aim anywhere below the waist line except the groin.

6.4.2.1.6. Members may use impact munitions on vicious or aggressive animals when the presence of those animals interferes with the safety of the members or the public, the execution of a police function, or completion of a mission.

6.4.2.2. Restricted Uses.

6.4.2.2.1. Members shall not deliberately target a subject's head, neck, throat, or groin area, unless deadly force is authorized.

6.4.2.2.2. Members are prohibited from using ~~beanbag round~~impact munitions against an individual for the purpose of crowd control or crowd management, except at the direction of a supervisor and with the approval of the Incident Commander (IC), unless there are exigent

circumstances requiring deployment to prevent the threat of death or serious injury to a person.

6.4.3. *Aerosol Restraints.*

6.4.3.1. Authorized Uses.

6.4.3.1.1. When a person(s) engages in physical resistance or indicates the intent to engage in physical resistance.

6.4.3.1.2. Members may use aerosol restraints on vicious or aggressive animals, when the presence of those animals interferes with the safety of the members or the public, the execution of a police function, or completion of a mission.

6.4.3.2. Restricted Uses.

6.4.3.2.1. Aerosol restraints shall not be used on the operator of a motor vehicle that is immediately capable of being driven unless there is a substantial justification for doing so and no reasonable alternative is apparent.

6.4.3.2.2. When deploying aerosol restraints, members shall attempt to minimize exposure to non-targeted persons.

6.4.3.3. Actions Following the Use of Aerosol Restraints.

6.4.3.3.1. Members shall make a reasonable effort to ensure that affected individuals are exposed to fresh air. Members shall, as soon as practicable, relieve the subject's discomfort by washing aerosol spray from the subject's eyes with water, unless the subject refuses by words or action.

6.4.3.3.2. Members shall notify the receiving agency of aerosol restraint exposure, and the condition of the exposed individual taken into custody shall be continuously monitored. If the individual's condition appears to worsen, members shall notify medical personnel.

6.4.4. *Conducted Electrical Weapon System (CEW).*

6.4.4.1. Authorized Uses.

6.4.4.1.1. In response to active aggression;

6.4.4.1.2. To prevent suicide or immediate physical harm when reasonable in light of available options;

6.4.4.1.3. To avoid the use of a higher level of force; or,

6.4.4.1.4. To effect the capture or prevent the escape of a subject when the member reasonably believes that the subject presents an immediate risk of physical injury to the public, members or themselves, or the escape of the subject presents a significant danger to the public, members, or themselves. Mere flight from an officer is not sufficient cause for the use of the CEW.

6.4.4.1.5. Members may also utilize warning tactics such as arcing or activating the CEW lasers in an attempt to gain compliance. Members should point the CEW in a safe direction when arcing and never intentionally direct the lasers into the eyes of a person.

6.4.4.1.6. Members may use a CEW on vicious or aggressive animals when the presence of those animals interferes with the safety of the members or the public, the execution of a police function, or completion of a mission.

6.4.4.2. Restricted Uses.

6.4.4.2.1. Members shall avoid the use of more than three CEW applications against the same individual, unless exigent circumstances (immediate and serious bodily harm to a person or persons is about to occur) warrant use. Members shall not use a CEW for pain compliance against those a reasonable officer would believe have an actual or perceived mental illness or are in mental health crisis, except in exigent circumstances and then only to avoid the use of a higher level of force.

6.4.4.2.2. Members shall not use a CEW to threaten or coerce a person except for the purpose of managing a potential or actual physical confrontation.

6.4.4.2.3. Members shall not use a CEW when there is a significantly heightened risk of secondary injury (e.g., uncontrolled fall, drowning) to the subject or others unless the member reasonably believes the threat or danger posed by the subject outweighs the risk of injury that might occur as a result of loss of control.

6.4.4.2.4. Members shall not use a CEW on a handcuffed or otherwise restrained subject, unless doing so is necessary to prevent them from causing serious physical injury to themselves or others, and/or to avoid greater application of use of force and no reasonable alternative is apparent. Where practical and safe to do so, members shall obtain supervisory authorization before deploying a CEW on a handcuffed subject.

6.4.4.2.5. Members shall not draw both a firearm and a CEW at the same time.

6.4.4.2.6. Members shall not use a CEW for crowd control or management purposes.

6.4.4.2.7. Members shall not deliberately target the head, face, or groin. When tactically feasible and time reasonably permits, members shall target lower-center mass for front shots.

6.4.4.2.8. Members shall not use a CEW on subjects who are known or who the member should have reasonably known to have come in contact with flammables or those in areas where flammables are present.

6.4.4.3. Additional considerations when using a CEW.

6.4.4.3.1. Members shall visually and physically confirm that the weapon they are holding is a CEW and not a firearm.

6.4.4.3.2. Only one member may intentionally deploy a CEW at any given time on a subject, except where lethal force would be permitted.

6.4.4.3.3. Members deploying a CEW operationally, if feasible, should be supported by at least one member capable of providing immediate cover.

6.4.4.3.4. Members shall make every reasonable effort to attempt handcuffing during or between each CEW cycle.

6.4.4.3.5. After one standard CEW cycle, the member shall re-evaluate the situation to determine if subsequent cycles are necessary; members shall issue a warning prior to each additional cycle and wait a reasonable amount of time to allow the subject to comply, unless doing so would present a danger to the member(s) or others. Members shall

describe and explain the reasonableness of each CEW cycle in their use of force reports.

6.4.4.4. Actions following the use of a CEW.

6.4.4.4.1. Involved member responsibilities:

6.4.4.4.1.1. If possible, members shall photograph consistent with Directive 640.02, Photography and Digital Imaging, the areas of probe strikes, whether probes penetrated the person's skin, left visible marks or only penetrated the person's clothing, before and after probe removal, as well as any marks, or lack of marks, left by drive stun. Consent should be obtained before photographing personally sensitive areas. All photographs shall be placed into evidence in accordance with Bureau policy.

6.4.4.4.2. Supervisor responsibilities:

6.4.4.4.2.1. Verify evidence of CEW deployment is collected, including photographs of tags, cartridges, and probes.

6.4.4.4.2.2. Verify appropriate medical services are summoned, if necessary.

6.4.5. *Canine Deployment*.

6.4.5.1. Authorized Uses.

6.4.5.1.1. To protect the canine officer, the police canine or members of the community from an immediate threat.

6.4.5.1.2. To apprehend or control subjects reasonably believed to be involved in a crime.

6.4.5.1.3. To apprehend a fleeing criminal subject when the canine officer reasonably believes that probable cause exists to arrest a subject for a crime.

6.4.5.1.4. To apprehend hiding subjects when it would be unsafe for officers to proceed into an area.

6.4.5.1.5. Members shall refer to the Canine Unit SOPs for additional guidance.

6.4.5.2. Restricted Uses.

6.4.5.2.1. Members shall not use canines for crowd control or management purposes.

6.4.6. *Riot Control Agents (RCAs) or Area Impact Munitions*.

6.4.6.1. Authorized Uses in Crowd Control.

6.4.6.1.1. Under the direction of the Crowd Management Incident Commander (CMIC), to disperse a crowd, when a demonstration or event becomes a civil disturbance, as defined in Directive 635.10, Crowd Management/Crowd Control.

6.4.6.1.2. To stop or disrupt a group of individuals committing a crime or about to commit a crime, when other more discriminate methods are not feasible or reasonable, and uninvolved parties are unlikely to be subjected to the use of force.

6.4.6.1.3. When a person(s) engages in physical resistance or indicates the intent to engage in physical resistance.

6.4.6.1.4. In exigent circumstances to defend the member or others from physical injury when other, more discriminate methods of applying force are not

feasible and uninvolved parties are unlikely to be subjected to the use of force.

6.4.6.2. Restricted Use.

6.4.6.2.1. Members shall not use RCAs or area impact munitions on a crowd engaged in passive resistance that does not impede a lawful objective.

6.4.6.2.2. Members shall not deploy RCAs or area impact munitions to disperse a crowd when avenues of escape are unavailable to the crowd.

6.5. Restraint Device.

6.5.1. *Hobble Restraint.*

6.5.1.1. Authorized Uses.

6.5.1.1.1. To control a subject beyond the capability of handcuffs.

6.5.1.1.1.1. The hobble restraint may be used to supplement handcuffs. It shall not be used in lieu of handcuffs.

6.5.1.1.2. If a subject has demonstrated the intent to slip their handcuffs to the front, hobble restraints may be used on the upper arms or legs to prevent such an action.

6.5.1.1.3. Hobble restraints (straight leg restraint) may be used to secure a combative subject's legs together to prevent kicking.

6.5.1.1.4. A hobble may be used to secure an animal.

6.5.1.2. Restricted Uses.

6.5.1.2.1. Members shall not use the maximum restraint technique (i.e., securing a subject's knees or ankles in a straight leg restraint, then fastening the hobble to the handcuffs).

6.5.1.2.2. Once secured, a subject shall not be placed on their stomach for an extended period. If feasible, the subject should be placed the subject's side or in a seated position.

7. **Police Vehicle Intervention Strategies.**

7.1. Intentional contact between a police vehicle and another occupied vehicle shall constitute a use of force for purposes of this policy. These techniques include, but are not limited to, Pursuit Intervention Technique maneuver (PIT), boxing-_in, and ramming.

7.2. Use of vehicle intervention strategies shall require use of force reporting and After Action review pursuant to the reporting sections in this directive. Members should refer to the applicable force categories for reporting requirements.

7.3. Members shall refer to Directive 630.05, Vehicle Interventions and Pursuits, for additional guidance on the authorized use of these vehicle intervention strategies.

8. **Deadly Force.**

8.1. Authorized uses of deadly force:

8.1.1. Members may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or serious physical injury; or,

8.1.2. If necessary to prevent escape, a member may use deadly force where the member has probable cause to believe that the subject has committed a felony crime involving the infliction or threatened infliction of serious physical harm, and the member reasonably believes the subject poses an immediate threat of death or serious physical injury to the member or others.

8.2. The member shall give a verbal warning to the subject, if time, safety, and circumstances permit.

8.2.1. Members should be mindful of the risks inherent in employing deadly force, which may endanger others. Reckless or negligent use of deadly force is not justified in this Directive or state statute.

8.2.2. Cover fire shall be investigated as a Category I use of deadly force and is only authorized if the member reasonably believes that an immediate threat of death or serious physical injury exists.

8.3. Restrictions on the use of firearms as deadly force:

8.3.1. Members are prohibited from firing warning shots.

8.4. Additional authorized uses for firearms:

8.4.1. A member is authorized to discharge a firearm to stop an aggressive animal that poses a danger to the member or others or end the suffering of a badly injured animal. Members shall refer to Directive 631.70, Investigation of Animal Problems, for additional guidance.

8.5. Moving Vehicles.

8.5.1. A moving vehicle does not presumptively constitute a deadly force threat.

8.5.2. Members shall not shoot at a moving or fleeing vehicle unless an immediate risk of death or serious physical injury to the member or others exists.

8.5.3. Members are prohibited from intentionally positioning themselves in the path of a moving vehicle or in a location that is clearly vulnerable to vehicular attack.

8.5.4. When feasible, members shall move out of the path of a vehicle rather than discharging a firearm at the vehicle or its occupants.

8.5.5. Members shall consider whether the threat to the member or other persons (including all vehicle occupants) is increased by incapacitating the vehicle operator. If the operator is incapacitated, the unguided vehicle may remain a threat to anyone in its path. Members shall weigh the threat of incapacitating the driver against the threat posed by allowing the driver to maintain control of the vehicle.

8.5.6. Members must be aware that shooting at a moving vehicle presents unique challenges of target and backstop.

8.5.7. Members must be aware that shooting from a moving vehicle creates additional challenges of stability and aiming that must be considered in the decision to employ deadly force.

8.5.8. Members shall not use poor tactics or positioning as justification for shooting at or from a moving vehicle.

8.5.9. Members are prohibited from entering an occupied vehicle that is readily capable of being driven (i.e., engine running or keys in the ignition) without substantial justification.

8.6. Members shall refer to Directives 1020.00, Weapons Administration, and 1021.00, Weapons Qualifications, for additional guidelines regarding the issuance, qualification requirements, and secure storage of Bureau-issued weapons.

9. **Post-force Medical Requirements.**

9.1. Members shall summon medical services at the earliest available opportunity when a subject is injured, complains of injury following any use of force, or is a person in a prohibited category (i.e., children under the age of fifteen; an individual who is known to be, or is obviously pregnant; a person who is known to be, or is obviously medically fragile~~),~~) who sustains Category I through III force (See Section 10). If an individual refuses medical evaluation, the refusal must be documented in an appropriate report. Members shall refer to Directive 630.45, Emergency Medical Custody Transports, for additional guidance.

9.2. ~~Members~~When safe to do so, members shall render emergency first aid within the limits of their individual skills, training and available equipment until professional medical care providers arrive on the scene.

9.3. The member shall continually monitor the person for changes in skin or lip color, breathing and levels of consciousness. If the individual's condition deteriorates, the member shall immediately notify Emergency Medical Services (EMS).

9.4. Members shall provide known and reasonably necessary information to facilitate the injured person's transport to a medical facility for additional treatment if recommended by EMS. Refer to Directive 630.45, Emergency Medical Custody Transports, for additional guidance on transporting injured subjects.

9.5. When transporting a person from hospital treatment to a correctional facility, members shall notify a corrections staff member of the extent of the person's injuries and medical treatment given, and provide the corrections staff with the person's medical release forms from the medical facility.

9.6. If a person complains of or appears to be experiencing respiratory distress (e.g., positional asphyxia), members shall perform the following as soon as practical:

9.6.1. If a member's body weight is impeding a subject's breathing, the member shall remove their body weight.

9.6.2. Summon EMS.

9.6.3. Check and continue to monitor the person's breathing and pulse until EMS arrives.

9.6.4. If medically appropriate, place the person in a seated position or position the person on their side to facilitate breathing.

9.7. Members shall follow protocols developed by the Bureau, in conjunction with medical professionals, on their responsibilities following CEW use. Conditions requiring medical treatment after deployment:

9.7.1. When a CEW is deployed in probe mode:

9.7.1.1. If the probes are embedded in the skin, Portland Fire and Rescue shall be summoned to remove the probes and provide medical treatment, if necessary. If the CEW is deployed outside of Portland Fire and Rescue's response area and medical treatment is mandated by this Directive or other injury, the fire department or EMS with jurisdiction shall be summoned.

9.7.1.2. Portland Fire and Rescue shall be the first responder to CEW deployments that require only the removal of probes and no other medical treatment, other than removal and treatment of the wound caused by the CEW probes. To ensure a response from Portland Fire and Rescue only, members must advise the Bureau of Emergency Communications that Portland Fire and Rescue is needed to remove the CEW probes.

9.7.2. When the CEW is deployed on a person in drive stun mode and no probes are deployed, EMS is not required on the scene, unless medical treatment is otherwise necessary.

9.7.2.1. Members shall summon EMS if the CEW is deployed in drive stun mode on a person in a prohibited category (i.e., children under the age of fifteen; an individual who is known to be, or is obviously pregnant; a person who is known to be, or is obviously medically fragile).

9.8. When any force is used on a person suffering or perceived to be suffering from excited delirium (before, during or after the application of force), members shall summon EMS to the scene. Members shall ensure the subject is examined at the scene. If in custody and EMS recommends transport, the subject will be transported to the hospital. If not in custody, and EMS declares the individual mentally competent, the individual can refuse treatment and transport.

10. **Categories of ~~Force~~Review.**

10.1. Reporting and investigating requirements are determined by the type of force deployed, injury sustained, and/or complaint of injury. A supervisor who receives notification of a use of force shall respond to the scene to determine the appropriate level of investigation pursuant to the categories listed below. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.

10.2. Category I: The application of deadly force, an in-custody death, and death that occurs as a result of member(s)' use of force.

10.2.1. Category I force includes, but is not limited to:

10.2.1.1. All critical firearm discharges by a member, except as authorized to stop an aggressive animal or end the suffering of a badly injured animal.

10.2.1.2. In-custody deaths;

10.2.1.3. Death as a result of member(s)' use of force;

10.2.1.4. Carotid neck holds; and

10.2.1.5. All intentional head, neck, and throat strikes with a hard object or when a member strikes the head of a subject against a hard object.

10.2.2. Category I Review.

10.2.2.1. The level of investigative response for Category I Force is governed by Directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures.

10.3. Category II: Other than deadly force, force resulting in hospital treatment or admission; force that is reasonably likely to cause enduring: pain, physical injury, disability or impairment of any body part, but does not result in death.

10.3.1. Category II force includes, but is not limited to:

10.3.1.1. All uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospital treatment (without admission), , or an injury deemed to be serious by a member's supervisor;

10.3.1.2. Any uses of force by a member on a subject that require hospital admission due to the force applied by a member;

10.3.1.3. More than one simultaneous intentional CEW application on a subject at a time;

10.3.1.4. Three or more CEW applications to the same person;

10.3.1.5. CEW deployments on restricted persons (i.e., children under the age of fifteen, pregnant individuals, medically fragile);

10.3.1.6.10.3.1.5. CEW deployments on individuals who have an actual or perceived mental illness, or who are in mental health crisis;

10.3.1.7.10.3.1.6. All launched impact munitions with contact;

10.3.1.8.10.3.1.7. Impact weapon, with injury requiring hospital treatment;

10.3.1.9.10.3.1.8. Firearm discharges to stop an aggressive animal;

10.3.1.10.10.3.1.9. Canine bites;

10.3.1.11.10.3.1.10. Takedown that causes injury requiring hospital treatment;

10.3.1.12.10.3.1.11. Riot control agents and/or area impact munitions;

10.3.1.13. Force used upon juveniles known or reasonably assumed to berestricted persons (i.e., children under the age of fifteen;

10.3.1.14.10.3.1.12. Force used upon, pregnant individuals known or reasonably assumed to be pregnant;, medically fragile);

10.3.1.15.10.3.1.13. Force resulting in a loss of consciousness;

10.3.1.16.10.3.1.14. Any strike, blow, kick or similar use of force against a handcuffed, otherwise restrained, under control, or in-custody subject, with or without injury; and

10.3.1.17.10.3.1.15. Ramming as a vehicle intervention strategy.

10.3.2. Category II Review.

10.3.2.1. For all force resulting in hospital admission, supervisors shall notify the Detective Division of the incident, and a detective shall respond to assist in the investigation of the use of force. The involved member's supervisor shall complete the use of force After Action report.

10.3.2.2. For all force involving more than one simultaneous intentional CEW application on a subject, supervisors shall notify the Detective Division of the incident, and a detective may respond to assist in the investigation of

the use of force. The involved member's supervisor shall complete the use of force After Action report.

10.3.2.3. The use of force After Action report shall be reviewed through the chain of command, up to and including the Assistant Chief.

10.4. Category III: Force that is reasonably likely to cause non-enduring: pain, disorientation, physical injury, or the complaint of pain.

10.4.1. Category III force includes, but is not limited to:

10.4.1.1. CEW deployment of one (1) or two (2) applications;

10.4.1.2. CEW deployment regardless of successful application or member intent;

~~10.4.1.2.~~10.4.1.3. Use of aerosol restraints;

~~10.4.1.3.~~10.4.1.4. Chemical agents used by SERT;

~~10.4.1.4.~~10.4.1.5. Use of impact weapon, without injury;

~~10.4.1.5.~~10.4.1.6. Physical injury or complaint of injury;

~~10.4.1.6.~~10.4.1.7. Complaint of improper force;

~~10.4.1.7.~~10.4.1.8. ~~CEW and launched~~Launched impact munitions, without contact;

~~10.4.1.8.~~10.4.1.9. Takedown;

~~10.4.1.9.~~10.4.1.10. Strikes with the hands or feet; and

~~10.4.1.10.~~10.4.1.11. PIT maneuver as a vehicle intervention strategy.

10.4.2. Category III Review.

10.4.2.1. The use of force After Action report shall be reviewed through the chain of command, up to and including the RU Manager.

10.5. Category IV: Force that is intended to establish control of a resistant subject, though not intended or reasonably likely to cause persistent pain or physical injury.

10.5.1. Category IV force includes, but is not limited to:

10.5.1.1. Non-striking use of baton;

10.5.1.2. Takedown performed in a completely controlled manner where there is minimal resistance and no injury;

10.5.1.3. Handcuffing against resistance or control against resistance;

10.5.1.4. Pointing of a firearm;

10.5.1.5. Use of hobble restraint;

10.5.1.6. Use of a less lethal weapon to stop a vicious or aggressive animal;

~~10.5.1.6.~~10.5.1.7. Firearm discharges to end the suffering of a badly injured animal; and

~~10.5.1.7.~~10.5.1.8. Boxing In maneuver as a vehicle intervention strategy.

10.5.2. Category IV Review.

10.5.2.1. The use of force After Action report shall be reviewed through the chain of command, up to and including the Sergeant's immediate supervisor.

10.6. Additional Considerations.

10.6.1. Supervisors have the discretion to elevate the category of any force investigation.

10.6.2. When multiple force options are used during an incident, the investigation shall be conducted at the highest applicable category.

10.6.3. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.

10.6.4. An on-scene supervisor who reasonably believes that a use of force involves significant misconduct by a member shall immediately notify their immediate supervisor and PSD. The on-call PSD Lieutenant shall determine the degree of investigation required.

10.6.5. Force incidents that involve a vehicle may be classified under any category of force; the appropriate category will be determined by a member's supervisor and will depend on the totality of the circumstances. Refer to Directive 630.05, Vehicle Interventions and Pursuits, for additional guidance.

10.6.6. Specialty units, such as the Special Emergency Response Team (SERT), Rapid Response Team (RRT) or others, are not exempt from use of force reporting procedures, as defined in this directive.

11. **Reporting**

11.1. Member Reporting of Force.

11.1.1. Members shall immediately notify a supervisor regarding any use of force~~.~~, or any negligent or unintentional discharge of a less lethal weapon.

11.1.2. All members will notify a supervisor as soon as practical when a complaint of improper force, a complaint of physical injury, or actual injury to a subject in custody as defined within this Directive occurs or they become aware of the same.

11.1.3. All members involved in a Category II through IV use of force shall provide a candid and detailed verbal account of the event at the scene.

11.1.4. All members involved in a Category II through IV use of force shall submit use of force reports in a timely manner, which include a candid and detailed account of the event, to facilitate a thorough review of the incident in question by supervisory members. Involved members shall submit use of force reports prior to the conclusion of the shift, unless incapacitated. Involved members shall report all uses of force whether or not the subject is struck or affected by any weapon.

11.1.4.1. Members who use force in any police action while off duty shall comply with the reporting requirements of this section.

11.1.5. Members involved in a Category I use of force shall refer to Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, for reporting and investigation requirements for deadly force incidents.

11.1.6. All members who witness any use of force shall provide a candid and detailed verbal account of the event at the scene. Members who witness a Category I through III use of force shall also submit appropriate reports in a timely manner, which include a candid and detailed account of the event, to facilitate a thorough review of the incident in question by supervisory members. Witness members shall submit reports prior to the conclusion of the shift, unless incapacitated. Witness members shall report all uses of force whether or not the subject is struck or affected by any weapon.

11.1.7. Reports shall demonstrate that the member(s) made diligent efforts to locate witnesses and explain when circumstances prevented them from doing so or

obtaining contact information. Reports shall also include all available identifying information for anyone who refuses to provide a statement.

11.1.8. All reports related to use of force shall follow Directive 900.00, General Reporting Guidelines, regarding formatting, timeliness of completion, and submission.

11.1.9. In addition to those guidelines, regardless of force category or type, involved members shall also include a description of the following in their use of force reports:

11.1.9.1. The reason for the initial police presence.

11.1.9.2. The unique characteristics of the event.

11.1.9.3. Whether the individual or subject was known by the member to be mentally ill or in mental health crisis. If mental illness was present, members shall describe how they took that into account and how it impacted their decision making.

11.1.9.4. A description of the decision-making at each significant point leading up to and during the event.

11.1.9.5. The force used, to include descriptive information regarding the use of any weapon.

11.1.9.6. Any observable injury to the subject, any complaint of injury or the absence of injury, including information regarding any medical aid or on-scene medical evaluation provided or refused by the subject, when applicable.

11.1.9.7. The level of resistance encountered by each officer that led to each separate use of force and, if applicable, any injuries to the subject(s) or member(s).

11.1.9.8. What, if any, de-escalation techniques were used and whether or not they were effective. If not used, the member shall provide justification as to how time and circumstances did not reasonably permit the member to utilize de-escalation techniques.

11.1.9.9. Members shall include all relevant considerations found within this, and other appropriate, directives in their reports.

11.1.10. For force Categories I through III, members shall provide a narrative account of the force they observed another member apply.

11.1.10.1. Members shall immediately notify an on-duty supervisor of any use of force by another member that violates the constitutional standard as soon as safe to do so.

11.2. Additional Reporting Guidelines for Less Lethal Weapon & Munition Use.

11.2.1. The member shall complete and submit a use of force report documenting the incident. The use of force report shall contain:

11.2.1.1. The specific circumstances that led to the discharge of the weapon.

11.2.1.2. The name of the supervisor who was verbally notified, as well as the name of the responding supervisor, if different.

11.2.1.3. A description of the warning given. If no warning was given, members shall state why.

11.2.2. If the member who discharged the weapon is injured and unable to submit a use of force report, the reporting requirement for involved members can be delayed until the member is capable of completing the report. The member shall, in a timely manner, provide their supervisor with a Work Status Report which identifies any restrictions or limitations on the member until a specified date.

11.2.3. Reporting of CEW Use.

11.2.3.1. The report shall document:

11.2.3.1.1. The specific circumstances leading to the use of the CEW.

11.2.3.1.2. All warnings given to members and the subject. If no warnings were given, members shall document their justification for not issuing a warning.

11.2.3.1.3. The distance from which the CEW was used.

11.2.3.1.4. The location on the subject's body of the probe strike and the impact points.

11.2.3.1.5. The serial numbers of all cartridges expended.

11.2.3.1.6. The serial number of the CEW used.

11.2.3.1.7. The name of the member designated as immediate cover, if applicable or present.

11.2.3.1.8. The name of the supervisor who was verbally notified as well as the responding supervisor, if different.

11.2.3.1.9. Whether EMS responded and the results of any medical evaluation, if applicable. If EMS was not summoned, the member shall provide a justification.

11.2.3.1.10. Any evidence or complaints of injury or illness by the subject.

11.2.4. Reporting of Canine Use.

11.2.4.1. Canine handlers shall also complete a use of force report for all bites.

11.2.4.2. Canine unit supervisors shall complete an After Action report for all directed and unintentional canine bites through channels to the appropriate Assistant Chief.

12. **Supervisor Reporting and Investigation.**

12.1. A supervisor who receives notification of a use of force shall respond to the scene unless extraordinary circumstances exist. In rare circumstances, safety or other practicality reasons may prevent a supervisor from responding directly to the scene, and instead necessitate that the supervisor respond to a proximate location.

12.2. Where necessary, the supervisor shall ensure that the subject upon whom force was used receives medical attention from an appropriate medical provider.

12.3. The supervisor shall conduct an administrative review and a thorough investigation of the use of force, consistent with this policy, gathering applicable evidence described in Section 13.4. of this policy.

12.3.1. If a supervisor is involved in the use of force, they shall contact another supervisor to conduct the administrative review of the incident.

12.4. Supervisors shall personally speak to the involved member and make an inquiry sufficient to determine the nature of the event and the member's justification for the use of force.

12.5. Supervisors shall personally speak to the witness member(s) and make an inquiry sufficient to describe the nature of the force.

12.6. Supervisors shall interview members and witnesses individually and not in groups.

12.7. Supervisors shall make diligent efforts to document witness observations.

12.8. Supervisors shall immediately notify the shift supervisor and PSD regarding any use of force that could appear, to a reasonable supervisor, to violate the Constitutional Force standard; all members' Serious Use of Force; any use of force against persons who have actual or perceived mental illness; or any suspected significant member misconduct.

12.9. In the event that the supervisor suspects possible criminal conduct, the supervisor shall notify their shift supervisor, the on-call PSD Lieutenant, the branch Assistant Chief, and the Bureau's Detective Division.

13. **Force After Action Reports.**

13.1. For Category II-IV force incidents, the supervisor shall document the findings of the review and investigation in an After Action report, and forward the report through the chain of command.

13.2. The After Action report form serves as a checklist to ensure that supervisors carry out force investigation responsibilities. The Inspector, or Chief's designee, shall review the form for adequacy and relevance, at least annually, and revise as needed.

13.3. For Category II-IV force incidents, supervisors shall complete an After Action report within 72 hours of the use of force.

13.4. All force After Action reports or, in use of deadly force incidents, the investigator's report shall contain a detailed description and comprehensive account of the force. The report(s) shall include:

13.4.1. Summary: a short one or two paragraph narrative that describes the significant facts of the event.

13.4.2. Involved Member statement: a narrative that describes the use of force.

13.4.3. Investigation: a description of what actions supervisors took and directions they gave on scene.

13.4.4. Discussion of force: a description of the nature of the force and the member's justification for the use of force.

13.4.5. Injuries: a description and photographs of the presence or absence of injuries to the subject or Bureau member involved in the use of force and if any medical treatment was administered, and by whom.

13.4.6. Subject statement: supervisors shall make an attempt to obtain a statement from the subject detailing the event and any injuries.

13.4.7. Witness Member statement: supervisors shall obtain a statement from the witness member(s) detailing their observation of the event.

13.4.8. Non-member witness statements: supervisors shall make an attempt to locate witnesses to the event and obtain and document complete statements. If any information from the witness statements needs to be documented in a criminal report, the supervisor shall ensure that the witness statements are documented in the appropriate report. Supervisors shall document circumstances that prevent them from identifying witnesses or obtaining contact information. Reports shall include all available identifying information for anyone who refuses to provide a witness statement.

13.4.9. Physical evidence: supervisors shall ensure that the administrative review includes collecting any physical or photographic/video evidence that may assist other reviewers in the chain of command in understanding the scene and event.

13.4.10. Critique Findings and Recommendations: the critique of findings and recommendations shall contain a thorough analysis of the incident. It shall address any applicable directives, whether or not members complied with such directives and any recommendations or actions taken to address issues encountered on-scene or during the reporting process. Supervisors may also modify findings as appropriate and document modifications.

13.4.10.1. The authoring supervisor shall:

13.4.10.1.1. Review all use of force reports to ensure that they include information required per Bureau policy;

13.4.10.1.2. Evaluate the weight of the evidence;

13.4.10.1.3. Use a decision-point approach to analyze each use of force;

13.4.10.1.4. Determine whether the member's actions appear consistent with Bureau policy;

13.4.10.1.5. Determine whether there was legal justification for the original stop and/or detention;

13.4.10.1.6. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed; and

13.4.10.1.7. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that they discuss poor tactical decisions with the member and that the discussion is documented in the Employee Information System (EIS).

13.4.10.2. Supervisors in the chain of command review shall:

13.4.10.2.1. Ensure the authoring supervisor met all the requirements of 13.4.10.;

13.4.10.2.2. Review after action report findings using a preponderance of the evidence standard;

13.4.10.2.3. Review after action reports to ensure completeness and order additional investigation, when necessary;

13.4.10.2.4. Assess the incident for tactical and training implications, including whether the use of force may have been avoided through the use of de-escalation techniques or less force options;

13.4.10.2.5. Modify findings as appropriate and document modifications;

13.4.10.2.6. Order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the findings and counsel the investigator;

13.4.10.2.7. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed;

13.4.10.2.8. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that the authoring supervisor discusses poor tactical decisions with the member and that the discussion is documented in EIS;

13.4.10.2.9. Suspend an investigation immediately and notify the branch Assistant Chief, the ~~Director of~~on-call PSD Lieutenant and the Detectives Division whenever the investigation supervisor, shift commander or Division commander finds evidence of apparent criminal conduct by a member; and

13.4.10.2.10. Report a matter to the on-call PSD Lieutenant for review and investigation whenever an investigating supervisor, shift commander or precinct commander finds evidence of significant misconduct by a member or employee.

13.4.10.3. The use of force After Action report shall be completed through the RU within twenty-one days of the event.

13.5. If a supervisor determines that there were performance deficiencies not rising to the level of misconduct, supervisors shall determine whether additional training or counseling is warranted. The Bureau shall provide such counseling or training, consistent with Bureau policies.

13.6. Supervisors shall ensure that EIS tracks all comments, findings, and corrections related to the After Action Reports. Members shall refer to Directive 345.00, Employee Information System (EIS), for additional guidelines.

13.7. All supervisors in the chain of command shall be held accountable for inadequate reports and analysis. As a result, all supervisors shall be subject to corrective action or discipline for the accuracy and completeness of ~~after action~~After Action reports completed by other supervisors under their command. Corrective or disciplinary action may include training, demotion, and/or removal from a supervisory position, based on repeated deficient after~~-~~ action reviews at any level of command.

13.8. When, after investigation, a use of force is found to violate policy, the Bureau shall ensure that investigative findings regarding member misconduct are adequately addressed and that appropriate corrective action is taken fairly and expeditiously to resolve the issue.

13.9. Where the use of force indicates policy, training, tactical or equipment concerns, the immediate supervisor shall notify, through channels, the Inspector and the Chief, who shall ensure that the Bureau timely conducts necessary training and/or resolves the policy, tactical or equipment concern.

13.10. The Chief, or designee, and the PSD have the discretion to reassign a use of force investigation to the Detective Division or any Bureau supervisor, thereby taking it out of the after action chain of command as described.

13.11. The Inspector's Office shall routinely audit force-related After Actions and the associated reports. The Chief, or a designee, shall refer to the Inspector's audits to identify trends related to deficient reporting and investigations or problematic use of force patterns. The Chief, or a designee, shall take appropriate corrective action throughout the chain of command when use of force reports, force investigations conducted by supervisors, force-related After Action reports and Command reviews are not completed in accordance with Bureau policy and practices.

13.12. The RU Manager shall ensure that the narrative section of the use of force After Action report is forwarded to the Multnomah County District Attorney's Office in a timely fashion.

13.13. Additional Supervisor Reporting Responsibilities.

13.13.1. An on-duty supervisor shall respond to the scene of all negligent or unintentional discharges of a firearm and notify the Detective Division, which will assume investigative responsibility, except at Bureau authorized training events, where no ~~death~~injury occurs. At training events, as long as no ~~death~~injury occurs, the Training Division shall have responsibility for investigating and reporting the negligent discharge.

13.13.2. An on-duty supervisor shall investigate all negligent or unintentional discharges of less lethal weapons and document the incident in an after action report.

13.13.2.1. Supervisors shall investigate negligent or unintentional discharges of less lethal weapons that strike another person in the same manner as a use of force.

#1

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Q1 Please provide feedback for this directive

COMMENTS ON FORCE, REPORTING, WEAPONS AND VEHICLE RELATED DIRECTIVES, MARCH 2018

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are our comments on the Directives posted for review on March 1 . We discovered them on the PPB website on March 9 and asked the Bureau whether a formal email had gone out to the community asking for input. The information was finally sent out on March 23. While the Bureau has signalled its intention (in Directive 010.00) to change the review timelines so there are 15 days for first reviews and 30 days for second reviews, PCW continues to think there should be longer timelines, especially for complex policies such as Use of Force (1010.00).

Of the seven policies up for review, we previously commented on five in July 2017, one (630.60-Vehicle Disposition) in October 2014, and one (630.05-Vehicle Interventions and Pursuits) in August 2015. With the exception of 630.05, most of these comments are repeats of ones we made previously that the Bureau has chosen to reject or ignore. As noted last year, our primary concern with 1010.00 is that it defines de-escalation both as lowering tension at a scene and using less force on a suspect. We also noted that the key promise made by the presence of the US Department of Justice around deadly force incidents-- that they should not be treated differently from other uses of force-- seems to have gone out the window. This was codified by the changes made to 1010.10 through City Council, wherein offices involved in the death of a civilian are not being required to write force reports until after a criminal investigation has ended, and if their gunfire did not result in death the Bureau is leaving such reporting up to the discretion of supervisors. As we noted last year, this is no way to build trust in the community or hold officers accountable.

We point you once again to comments we made on 1010.00 Force (and 1051.00 Taser Use) in October, 2012: .

We continue to urge the Bureau to number all of the sections of the Directives, such as the Definitions, Policy and Procedure sections (our comments here refer to the Procedure section unless otherwise noted). Interestingly, 630.60 includes just such a numbering scheme even though there are no definitions in Section 2; this shows that the Bureau was numbering the Definitions in 2014 but stopped without explanation.

DIRECTIVE 1010.00-USE OF FORCE

In November 2015, we noted that specific language required to be in the Force Policy under the USDOJ Settlement Agreement had been removed from the Directive. In July 2017, we applauded that the Bureau reinstated the phrase "only the objectively reasonable force necessary" (the word "objectively" was the new addition) in Policy Section 2. The revision also reinstated the phrase asking officers to "develop... the skills... to regularly resolve confrontations while minimizing the need to use force" (Policy Section 4), though the Agreement calls for language saying "without resorting to force or [using] the least amount of force" (Settlement Agreement paragraphs 66 a&b). At the very least, the phrase should say "minimizing the use of force" without the unnecessarily loaded word "need."

We also recognized that the Bureau put more emphasis on de-escalation (as we and various advisory bodies urged) by making De-escalation the focus of Section 1. However, we remain very concerned that the Bureau is using the term "de-escalation" to mean two different things. The first, and the one we encourage the Bureau to keep focusing on, includes verbal and physical means to lower the likelihood that a confrontation will end with violence (Sections 1.1.-1.3). But it is also used to describe officers using less force on a person who's already been subjected to use of force as their resistance lowers (Section 1.4). While this is required by the Settlement Agreement (which also uses the term in this second way) and a good policy, we still recommend another word (perhaps "abatement" or "mitigation" of force) so that officers do not continue to describe moving from using a Taser to using pepper spray, for instance, as "de-escalation." We also note that Section 1.1.1 implies that making threats ("warnings") is a form of de-escalation, which it is not.

In our comments on this Directive in July, 2014, November 2015, and July 2017 we asked the Bureau:

--to re-insert the words "physical or mechanical intervention" to the definition of Use of Force. These words were added in December 2014 to apply only when such intervention is used against physical resistance during "control holds and un-resisted handcuffing." The current version cuts these words, now saying "control holds and handcuffing without resistance do not constitute force." In 2015 we related how Captain Kelli Sheffer of the Traffic Division issued a finding of "Unfounded," around a complaint in which an officer admitted to forcibly moving a protestor's hand (the civilian was holding a flashlight), claiming that there was no use of force-- it was a "natural defensive reaction." We maintain that the Directive should be clear that any unsolicited touching of a civilian by a police officer is a use of force, just as any unwanted touching of an officer by a community member is considered assault on an officer.

--to stop saying that "[the Bureau's commitment to public safety] may require" the use of force (now in Policy Section 2), but rather underscore that force is always a choice. We applaud that the phrase "members may be required to used deadly force" remains cut from the Directive. We suggested the Bureau say something like: "When no alternatives appear to be effective, officers may choose to lawfully use a reasonable amount of force to accomplish a lawful objective."

--to reinstate the sections on analysis of force confrontations to this Directive, rather than leaving them removed to Directive 315.30 Satisfactory Performance. At this point, there is not even a substantive reference to 315.30 in the Force policy.

We also expressed concerns in 2015 and 2017 about leeway given to officers to precipitate force using actions which are not Bureau-approved by saying officers could do so with "substantial justification." Not only is that exception still in the Directive (Section 5.3.2), but it appears in other places as well (Section 6.4.3.2.1 about using pepper spray on a car's driver, and Section 8.5.9 about entering a car readily able to be driven).

The current Directive somewhat addresses our concern that officers can't possibly know when they are "avoiding a use of a higher level of force" (Impact Munitions 6.4.2.1.3, Tasers 6.4.4.1.3 and 6.4.4.2.1), because there is no clear continuum explaining which options are considered lower. The distinction is made that Impact Weapons/Munitions and Tasers can be used against "active aggression" (6.4.1.1.1, 6.4.2.1.1, 6.4.4.1.1) while pepper spray can be used against physical resistance "or the intent to engage in physical resistance" (6.4.3.1.1). Deadly force is authorized "to protect (officers) from what they reasonably believe to be an immediate threat of death or serious physical injury" or to stop a fleeing felon who poses such a threat (8.1). Therefore the Directive is laid out with what's considered lower force (pepper spray) in the middle of higher uses, which are then separated from Deadly Force by Police Vehicle Intervention Strategies (Section 7).

In our previous comments we also questioned the Bureau's "START-IT" mnemonic device for considering the factors under Graham v. Connor that legally justify officer use of force, because, for example, the impact of the person's behavior on the public was second-to-last rather than earlier on. The current Directive doesn't even mention the person's impact as a consideration, only Severity of the crime (5.1.2), Resistance/evading (5.1.3) and Threat (5.1.1). One primary consideration-- Time and available resources-- is not specifically mentioned anymore, in favor of noting "a reasonableness inquiry is not limited to these [three] factors" (5.2). De-escalation and many positive stories of officer resolution of conflict in the last few years have involved their willing to be patient rather than rush a situation, so we hope these other factors will be re-incorporated as priorities to consider.

We also called attention to the fact that after the death of Lloyd "Tony" Stevenson in 1985, the Bureau prohibited the use of the carotid neck hold. Yet, the carotid hold is mentioned in the definition of deadly force and "serious use of force," as well as Section 10.2.1.4 with

neck hold. Yet, the carotid hold is mentioned in the definition of deadly force and "serious use of force," as well as Section 10.2.1.4 with no restriction. While it is good that deadly force is also defined as a "strike to the head, neck or throat with a hard object" (and that is investigated as deadly force in 10.2.1.5), there also is an implied permission given to use such tactics when there are no prohibitions in the policy. That said, Section 6.4.1.2.1 does restrict the use of batons/impact weapons on the "head or throat, neck, spine or groin unless deadly force would be authorized."

Regarding officers shooting at vehicles, it's not clear why the section restricting firing at moving vehicles (8.5.2) saying deadly force is authorized if there is an "immediate risk of death or serious physical injury" dropped the provision that such a threat had to come from something other than the vehicle. We also noticed the list of references to other Directives does not include 630.05 on Vehicle Pursuits, where deadly force options (ramming, Pursuit Intervention Technique, and boxing-in [1010.00 Section 7.1]) are outlined. As noted in our comments on 630.05, there is no mention in that Directive about the guidelines on deadly force and moving vehicles any more.

___Weapons Use in Force Directive

The current Directive includes policies on Less Lethal Weapons, Batons, Conducted Energy Weapons (Tasers), Aerosol Restraints (Pepper Spray), Impact Munitions, Riot Control Agents, and Hobbles under the general category of Less Lethal Weapons (Section 6). We still appreciate that the Directive cautions such weapons "can still result in death or serious injury" (Section 6.1). However, we continue to urge the Bureau to carry forward the warning from the definition of "Impact Munition" in Directives 1020 & 1021 which says such weapons are "not to be considered non-lethal."

A previous concern we had about officers carrying both "bean-bag" (lead pellet bag) and lethal shotguns at the same time has been alleviated by the Bureau changing to a new less lethal weapon system, the 40 MM launcher. PCW does not have a lot of information about these new weapons but it seems that policies saying that the foam projectiles they fire should not be aimed at a person's head or chest or other vulnerable areas (covered under "Impact Weapons" in 6.4.2), and should not be used at too close a range are a good start to minimizing improper use and unnecessary harm.

The current general call for officers to issue warnings before using force (Section 3) is much better than the old version, including that it asks to take into consideration language barriers or the inability to hear (3.1). We still agree with the Training Advisory Council that other possible barriers such as mental health crisis and intoxicant impairment, as listed in Section 1.2, and cultural norms should also be added here.

We are still very concerned that officers are allowed to use "arcing" (creating an electrical "zap" with the Taser) in the air as a means of warning a suspect of impending use of force (6.4.4.1.5). Since warning shots from a firearm are prohibited (Section 8.3.1) "for the purpose of compelling compliance from an individual, but not intended to cause physical injury" (definitions), it does not make sense that such threatening behavior is considered to be within policy for Tasers. The Directive also allows a Taser to be used to threaten or coerce a person to "manage a potential or actual physical confrontation" (6.4.4.2.2), which is not a form of de-escalation (and to which we have repeatedly objected). Furthermore, Section 6.4.4.1.5 also allows using the Taser's laser sight as a means of warning, which is similarly unreasonable, but even if it is going to be allowed, should be required to be reported as a use of force. The Bureau tracked "Laser Light Only" until 2008 and was a national leader for doing so.*-1

The Directive also still contains a reference to "excited delirium" (Section 9.8, requiring EMS to be called), which is (a) not defined in the Directive and (b) not a medically accepted term. We were not alone in commenting to the Bureau that "excited delirium" is a vague syndrome that Taser International (now Axon) uses to explain why so many people die when they are struck by their allegedly safe electroshock weapons. In its release notes for Directive 1010, the Bureau indicated that the US DOJ insisted they not remove the words "excited delirium" from the policy since it is "a term of art." PCW appreciates the DOJ's efforts to reform our Police Bureau, but they should be tuned into community concerns such as this one. We will be reporting on this anomaly to Judge Simon at the Fairness Hearing on April 19.

As noted in July, our greatest concern about the Taser provisions is they still do not seem to be in line with the Ninth Circuit Court of Appeals, whose ruling said Tasers are a serious enough use of force that they can only be used when there is an "active threat." While the Directive prohibits use for a person merely running away, it allows Taser use given a "reasonable belief that the subject presents a risk of death of serious injury" (Section 6.4.4.1.4) rather than using the Court's criterion of an active threat.

risk of death or serious injury" (Section 6.4.4.1.4) rather than using the Court's criterion of an active threat.

Also, previously it was prohibited to use Tasers against persons engaged in passive resistance. Now section 4.1 generally prohibits force to overcome such resistance, but only if it "does not impede a lawful objective." This seems like a license for officers to use violence against non-violent protestors (or criminal suspects). Section 6.4.6.2.1 specifically says riot control agents and "area impact weapons" can't be used in cases of passive resistance that, again, "does not impede a lawful objective." These loopholes need to be more narrowly defined or removed.

The list of persons against whom Tasers should not be used now applies to all less-lethal weapons (Section 6.2), except that for unexplained reasons, the prohibition on using them against persons over the age of 60 was removed. We speculated that use of Tasers against people in such restricted classes getting investigated as a "Category 2" use of force (Section 10.3.1.5) probably covers our concern that it be mandatory to report such potential abuse.

While it is commendable (and in line with the Settlement Agreement) that officers should not use Tasers against persons who seem to be in mental health crisis (Section 6.4.4.2.1), there is still no consideration for people who may have epilepsy or other conditions making them vulnerable to Taser use.

Sections detailing what should go into a report, requiring a supervisor to check on a wounded civilian who is hospitalized, photographing injuries, and explaining why a Taser was used were all cut from an earlier version of the Directive, and, as we said in 2015 and 2017, should be re-inserted. In fact, the person who was subjected to force is not listed as part of the supervisor's on-scene force investigation (Section 12), except that they be given medical attention (12.2). Supervisors are to "attempt" to interview the subject per Section 13.4.6, but there is no caution against asking questions about potential underlying criminal activity. This is why PCW continues to call for the "Independent" Police Review or other such non-police agency to respond to scenes of use of force.

Regarding Baton use, while the examples of flashlights and radios are gone from previous Directive 1030.00, the current Directive seems to authorize use of anything as an impact weapon*-2 if an officer "reasonably believes that other authorized physical force responses are not available" (Section 6.4.1.1.1.1).

In looking at how the Force Directive applies to pepper spray, we continue to have concerns that Incident Commanders in crowd situations can authorize the use of chemical agents to disperse a crowd (6.4.6.1.1) since persons not engaged in "physical resistance" or "active aggression" are being subjected to such gassing. The admonition "to minimize exposure to non-targeted persons" (Section 6.4.3.2.2) is meaningless when officers use pepper spray or other chemicals so indiscriminately.

In terms of the seriousness of pepper spray, which has been known to cause or contribute to the deaths of numerous people (including Dickie Dow in Portland in 1998), it is good that its use is considered on the same level as Tasers (1-2 cycles) and impact weapons (Section 10.4.1.2), even though the threshold for use (physical resistance) is lower. It's not clear why reporting on the circumstances leading to the discharge of Less Lethal Weapons/Munitions (11.2.1.1) and Tasers (11.2.3.1.1) are required, but there are no specific reporting requirements for pepper spray.

Furthermore, in a previous iteration of the Directive there was a restriction to only use the spray from four feet away or more (even though that restriction was "to reduce the potential for splash back" and had a loophole for protection of the officer or another person from physical injury). With the famous image of the Occupy Portland protestor being sprayed in the mouth, and another such incident we witnessed on May Day 2015, we would like to see restrictions put on this chemical agent.

____Reporting Requirements in Force Directive

It is unfortunate that the previous After Action Report Directive (940.00) called for such reports to be made after all "crowd events," but now this Directive (and 905.00, see other comments) has more limited requirements. The current 1010.00 applies to use of "all launched impact munitions with contact" (10.3.1.7), "riot control agents and/or area impact munitions"(10.3.1.12), "impact weapon with injury requiring hospital treatment" (10.3.1.8), and various uses of force which are sometimes used but not necessarily particular to crowd control. A report that only goes up to the Responsibility Unit Manager, not the Chief's office, is to be written for "use of aerosol restraints" (10.4.1.2), "use of impact weapon, without injury" (10.4.1.4), "launched impact munitions, without injury" (10.4.1.7) and other

restraints" (10.4.1.2), "use of impact weapon, without injury" (10.4.1.4), "launched impact munitions, without injury" (10.4.1.7) and other various uses of force.

Since "control holds" and force used at protests do not seem to be considered force by definition, PCW previously asked why the Bureau only required officers to contact supervisors after a use of force where the old Directive 940 also required the contact if there was a complaint of excessive force or physical injury. Those requirements were added back in to a new Section 11.1.2, which now includes the term "or actual injury."

The Bureau also added Section 13.4.10.2.10 requiring Supervisors to report information to Professional Standards if there is evidence of "significant" misconduct. This is a good addition, but the term "significant" should either be defined or removed, as any misconduct during a force incident should be investigated.

As we noted in July, if we had unlimited paid staff time, rather than being all volunteers, we would also go through the Directive to see how many of the recommendations made by the Community Oversight Advisory Board and Citizen Review Committee (which we supported) were incorporated.

Footnotes (1010):

*1- In addition, subsequently to 2008 it was recommended by the Auditor and the Community/Police Relations Committee for the Bureau to track use of Taser laser light use.

*2- here and elsewhere this and other Directives there are references to weapons as "tools," something we have repeatedly asked the Bureau to stop doing. While hammers and screwdrivers can be used as weapons, firearms, Tasers, batons and pepper spray are all designed to be weapons. It only minimizes the seriousness of their use to continue to call them "tools."

CONCLUSION

As we have stated before, Portland Copwatch appreciates the Bureau reaching out to the community for comment, but are looking forward to more of an open dialogue when the Portland Committee on Community Engaged Policing gets underway (if ever). We continue to urge the Bureau to be open to revising its timelines for review to ensure meaningful public input can take place. One of the only reasons we were able to tackle these rather long Directives is that we had made comments on them earlier. Our commentary would be much shorter if we could just be thanking the Bureau for adopting our advice, but such changes are few and far between.

Portland Copwatch

Q2 Contact Information (optional)

Name

Email Address

#2

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Q1 Please provide feedback for this directive

Underlying the use of force are certain expectations that have accumulated the force of protocol. Chief among these is the idea that immediate and abject submission is required, and that any gesture short of that submission is tantamount to violent resistance. So it is that we, the public, are subjected to repeated incidents in which even obviously feeble persons are required to hurl themselves face-first to the ground, and weapons are drawn and deployed in situations where little is actually at stake, save the near-feudal social status of the arresting (or confronting) officer. This excessive and unyielding attitude is creating a context of distrust, fear, and resentment towards the Constabulary. I suggest a study of contrasting police techniques in Tokyo and Copenhagen.

Q2 Contact Information (optional)

Name

Email Address

March 30, 2018

VIA EMAIL

The Honorable Ted Wheeler
Portland City Hall
MayorWheeler@portlandoregon.gov

Chief Danielle Outlaw
Portland Police Bureau
Danielle.Outlaw@portlandoregon.gov

Re: Comments from American Civil Liberties Union of Oregon on Portland Police Bureau Directive 1010.00 Use of Force

Dear Mayor Wheeler and Chief Outlaw:

On behalf of the American Civil Liberties Union of Oregon (ACLU of Oregon) and our members, we submit these comments on Portland Police Bureau (PPB) Directive 1010.00 Use of Force. We request that these comments be read in conjunction with the comments we submitted on March 17, 2018 for Universal Review of Directive 635.10 Crowd Management/Crowd Control.

I. Introduction

As revised in 2017, Directive 1010.00 now includes all use of force by PPB members, broadening the scope of a Directive that already covered a significant number of topics and issues.

While we have concerns about certain reporting and procedural policies in the Directive, at this time we comment only on the definitions, the authorization use of force by PPB members, and the manner in which force is used.

II. Specific Revisions to Proposed Directive 1010.00

A. Definitions

As noted by the Oregonian Live[1], the definition of "Active Aggression" in the Directive is vague and overly broad. As currently written, "Active Aggression" can include a threat through verbal means. Given that this definition is used to authorize use of impact weapons, impact munitions, and CEWs, a narrow and clear definition is necessary. We propose the following:

> Active Aggression: A threat or overt act of a physical~~n~~ assault ~~(through physical or verbal means)~~, coupled with the present ability to carry out the threat or physical assault, which reasonably indicates that a physical~~n~~ assault or injury to any person is ~~about to happen~~imminent, unless intervention occurs

We also request revisions to the definition of Deadly Force to be in line with Portland's longstanding policies and other language in this Directive.

> Deadly Force, also known as Lethal Force: Any use of force likely to cause death or serious physical injury, including the use of a firearm, carotid neck hold, or strike to the head, neck, spine, or throat with a hard object.
>
> De-escalation: A deliberate attempt to ~~reduce~~ prevent the necessity of use or force or reduce the amount ~~intensity~~ of force necessary to resolve confrontation.

B. Policy

The ACLU of Oregon recognizes that police use of force disproportionately impacts some members of our community more than others. It should be an explicitly stated policy that members shall in no circumstances consider a person's real or perceived age, race, ethnicity, color, national origin, language, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or disability as a justification for the use of force.

C. Procedure

1. De-Escalation

The ACLU of Oregon appreciates the placement of de-escalation procedures at the beginning of the Directive. However, the emphasis on establishing control over the individual in sections 1.1 and 1.4 should be replaced with language regarding emphasizing protecting the public safety. Section 1.2 should explicitly state that in instances of passive resistance, members are only authorized to use the amount of force reasonably necessary to effectuate a lawful arrest.

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[1] http://www.oregonlive.com/politics/index.ssf/2017/02/portland_city_council_overturn.html

2. Authorized Use of Force

Section 2.1.1 should be revised to provide, "[p]revent or terminate the commission or attempted commission of *a crime*" to distinguish a criminal matter from a civil offense.

3. Warning Issuance

Section 3 should include a requirement that a warning be clear, intelligible, and capable of being heard.

4. Prohibited Use of Force

Section 4.1. This section currently allows force to be used against people engaged in passive resistance who are impeding a lawful objective. Because this section also allows for physically moving a subject, no reason exists to use force against such individuals; we recommend deleting the phrase, "that does not impede a lawful objective."

5. Graham Standard: Force Performance Requirements

We recommend that Section 5.1.3 be revised to be consistent with the Graham standard, and to eliminate the above-discussed language regarding "control":

> 5.1.3. Active Resistance or Evading Arrest. Whether the individual is actively resisting a lawful ~~control~~ arrest or attempting to evade a lawful arrest by flight. When force is used, the amount of force used, shall be reduced as resistance decreases. Only the amount of force reasonably calculated to ~~maintain control~~protect public safety shall be used.

6. Less Lethal Force

Section 6.1. The policy should be clearer that less lethal force is dangerous and is not a tactic to be used for person who are merely verbally confrontational or passively resisting members' commands without posing any threat to public safety:

> 6.1. Less lethal force provides members with additional tactics or options for managing encounters with threatening~~confrontational~~ or actively-resistive subjects. However, members shall consider that the use of less lethal force can still result in death or serious injury.

Section 6.3. Consistent with the comments above, we request elimination of the vague phrase "under control" from Section 6.3 with "do not pose an immediate threat to public safety."

Section 6.4.1. A definition for "impact weapons" is necessary.

Section 6.4.2. A definition for "impact munitions" is necessary.

Section 6.4.2.2. The prohibition on the use of beanbag rounds for purposes of crowd control or crowd management should be broadened to prohibit the use of all impact munitions for such purposes without specific authorization and heightened justification required to protect public safety.

Section 6.4.3. Because "physical resistance" is defined as those who are not engaged in active aggression, "less lethal weapons" should not be authorized against a person who "engages in physical resistance or indicates the intent to engage in physical resistance". We recommend deletion of Section 6.4.3.1.1.

Section 6.4.4.2. In order to be consistent with case law regarding use of force, this section should include a prohibition against the use of CEWs when the individual does not present an "immediate threat" of harm to member or officer safety.[2] This section should also include a prohibition on use of CEWs when the individual appears to be over the age of 60.

Section 6.4.5.1.1. Canine deployment should be authorized only for an "immediate threat to public safety."

Section 6.4.6 requires serious revisions: "Riot Control Agents" or "RCAs" are not defined in Directive 1010.00 or elsewhere in the Portland Police Bureau Directives. Presumably, RCAs include:

- Skip fired specialty impact less-lethal munitions;
- Direct fired specialty impact less-lethal munitions;
- Aerosol hand-held chemical agents;
- Non-hand-held chemical agents; and
- Light and chemical diversionary devices.

Each of these weapons has the potential for serious bodily injury or death, and each operates differently, posing very different risks to the public. We ask that RCAs are defined, and that Section 6.4.6 address each of these weapons separately.

Consistent with our March 17, 2018 comments on Directive 635.10 Crowd Management/Crowd Control, it is the ACLU's position that skip fired specialty impact less-lethal munitions should never be used in crowd control situations, due to the potential for serious injury or death to members of the public who are passively present, and the non-directional and non-target specific manner in which these are deployed.

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[2] *See Bryan v. MacPherson*, 630 F.3d 805, 826 (9th Cir. 2010).

Also consistent with our Comments on Directive 635.10, direct fired specialty impact less-lethal munitions and aerosol chemical agents should not be used solely for crowd management or crowd control situations, and should not be deployed indiscriminately into a crowd.

Finally, non-hand-held chemical agents and sound, light and chemical diversionary devices should only be used if all other methods of crowd dispersal have failed, and only after a warning and opportunity to disperse.

Although the restrictions on use of "RCAs" for crowd control can be addressed as recommended in our comments in Directive 635.10, we also included proposed language to replace the entirety of Section 6.4.6 of this Directive:

6.4.6. *Riot Control Agents (RCAs) or Area Impact Munitions.*

6.4.6.1. Authorized Uses in Crowd Control

6.4.6.1.1. Dispersal, management or control of a crowd or a demonstration or event that has become a civil disturbance, as defined in Directive 635.10, Crowd Management/Crowd Control, is conducted under the direction of the Crowd Management Incident Commander (CMIC) and in accordance with Directive 635.10, Crowd Management/Crowd Control.~~Under the direction of the Crowd Management Incident Commander (CMIC), to disperse a crowd, when a demonstration or event becomes a civil disturbance, as defined in Directive 635.10, Crowd Management/Crowd Control.~~

6.4.6.1.2. When a person(s) constitutes an immediate risk~~ r~~ to public safety and other more discriminate methods are not feasible or reasonable, and uninvolved parties are unlikely to be subjected to the use of force. ~~To stop or disrupt a group of individuals committing a crime or about to commit a crime, when other more discriminate methods are not feasible or reasonable, and uninvolved parties are unlikely to be subjected to the use of force.~~

~~6.4.6.1.3. When a person(s) constitutes a clear and present danger to public safety.~~

6.4.6.1.3. In exigent circumstances to defend the member or others from physical injury when other, more discriminate

methods of applying force are not feasible and uninvolved parties are unlikely to be subjected to the use of force.

6.4.6.2. Restricted Use.

6.4.6.2.1. Members shall not use RCAs or area impact munitions on a crowd engaged in passive resistance ~~that does not impede a lawful objective~~.

6.4.6.2.2. Members shall not deploy RCAs or area impact munitions to disperse a crowd when avenues of escape are unavailable to the crowd

6.4.6.2.3. Skip Fired Specialty Impact Less–Lethal Munitions (Wooden Dowels and Stinger Grenades). Any and all less–lethal specialty impact weapons designed to be skip fired or otherwise deployed in a non-directional non-target specific manner shall not be used at all by PPB during demonstrations or crowd events. The use of the Stinger Grenade containing rubber pellets designed to be deployed in non-directional non-target specific manner is also prohibited for all crowd control use.

6.4.6.2.4. Direct Fired Specialty Impact Less-Lethal Munitions (SIM). Direct Fired SIM are less–lethal specialty impact weapons that are designed to be direct fired at a specific target, including but not limited to flexible batons ("bean bags"), and shall not be used for crowd management, crowd control or crowd dispersal during demonstrations or crowd events. Direct Fired SIM may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.

6.4.6.2.5. Aerosol Hand–held Chemical Agents Aerosol, hand–held, pressurized, containerized chemical agents that emit a stream shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events

6.4.6.2.6. Use of Non-hand Held Chemical Agents (e.g., Tear Gas). If authorized by the Mayor and the Chief of Police, members may use non-hand held crowd control chemical agents for crowd management, crowd control and crowd dispersal as a last resort if other techniques, such as de-escalation, arrests and police formations, have failed or will not accomplish the policing goal determined by the CMIC. Chemical agents can produce serious injuries or even death, especially in vulnerable populations (such as

> elderly persons, infants, and people with asthma). Members shall use the minimum amount of chemical agent necessary to stop the threat to public safety. Chemical weapons shall not be used without first giving an audible warning of their imminent use, as set forth in Section 7, and reasonable additional time to disperse safely to the crowd, media and legal observers.
>
> 6.6.6.2.7. Use of Sound, Light and Chemical Diversionary Devices (e.g., Flash Bangs). If the CMIC is authorized by the Mayor and the Chief of Police, members may use sound, light and chemical diversionary devices as a last resort if other techniques, such as de-escalation, arrests and police formations, have failed or will not accomplish the policing goal determined by the CMIC. The use of sound, light and chemical diversional devices presents a risk of permanent loss of hearing or serious bodily injury from shrapnel. These devices shall be deployed to explode at a safe distance from the crowd to minimize the risk of personal injury, while moving or dispersing the crowd to address public safety concerns. Sound, light and chemical diversionary weapons shall not be used without first giving an audible warning of their imminent use, as set forth in Section 7, and reasonable additional time to disperse safely to the crowd, media and legal observers.

Section 6.4.2.1.3, Section 6.4.4.1.3, and Section 6.4.4.2.1 reference "a higher level of force." It is unclear whether this refers to a higher "category of force" under Section 10 of the Directive or is intended to have independent meaning. This term should be revised or defined to provide clear guidance.

Section 9.8 references "excited delirium," a term that likely requires a medical diagnosis and for which there is not an accepted consensus among major medical groups. Further, this term can be used to wash over claims of excessive use of force. We recommend you remove this term.

III. Conclusion

Thank you for taking the time to review our comments. We look forward to working collaboratively with the City of Portland and PPB on revisions to this and other Directives.

Sincerely,

Kimberly McCullough, Policy Director, American Civil Liberties Union of Oregon

#1

COMPLETE

Collector:	Web Link 1 (Web Link)
Started:	Friday, December 28, 2018 6:54:00 PM
Last Modified:	Friday, December 28, 2018 6:55:18 PM
Time Spent:	00:01:18
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Q1 Please provide feedback for this directive

COMMENTS ON FORCE, REPORTING, WEAPONS AND VEHICLE INTERVENTION DIRECTIVES, DECEMBER 2018

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are our comments on the Directives posted for review on December 1 and December 14 . As we noted in an email to the PPB, the comment the Bureau attached to Directive 1010.10 on Dead ly Force investigations states that the Bureau received no feedback on that policy in March, but 1010.10 was not posted for review in March. (The Bureau replied that the Directive was actually posted in April, but no public notification went out.)

All the other Directives posted on December 1 are ones we did comment on at that time, whereas the "odd Directive out" number 313.70 on Associations was previously posted in draft form for comment in June 2016, but apparently was never changed.

We continue to be concerned that Directive 1010.00 on Use of Force defines de-escalation both as lowering tension at a scene and using less force on a suspect. We repeat here our opposition to changes made in 2017 to these policies: they delay the requirement for officers involved in the death of a civilian to write force reports until after a criminal investigation has ended, and if their gunfire did not result in death, they leave such reporting up to the discretion of supervisors.

Going through the revised Force policy, we note that very few suggestions from Portland Copwatch were incorporated, while many suggestions from the ACLU were adopted in one way or another. It is really too bad that the Bureau discusses these changes behind closed doors as a public meeting with various stakeholders could lead to better policy making which doesn't require repeated fixing. We point the Bureau to the COCL's reports where they respond to various recommendations one by one explaining whether and why they include various suggestions into their final reports. While there is a place for the anonymous listings in the Bureau's publication of incoming comments, groups which wish to be identified (including ACLU and Portland Copwatch), and City-run advisory bodies (such as the Training Advisory Council, Citizen Review Committee, Community Oversight Advisory Board and, if they ever start looking at policies, the Portland Committee on Community Engaged Policing/PCCEP) should know what became of their suggestions.

An overall note we included as a footnote last time, but which requires serious attention: The Bureau should stop using the word "tool" to refer to weapons, as is done repeatedly in Directive 1010.00, and in Directive 1020.00 (proposed Section 5.4.3). These items are all designed to kill, harm, wound, or physically coerce people to follow police orders, not items used to hang kitchen doors or repair automobiles.

PCW acknowledges that the PPB is changing all language about previous shotgun-loaded "less lethal" munitions to reflect the new 40 MM launcher system in Directives 1010.00 and 1020.00.

We continue to urge the Bureau to give different labels to all of the sections of the Directives, such as the Definitions, Policy and Procedure sections (our comments here refer to the Procedure section unless otherwise noted) so there are not multiple sections

numbered "1." There is currently only one section in 313.70 but as the Bureau adds its new numbering scheme, if other sections are added we hope these changes will be considered.

DIRECTIVE 1010.00-USE OF FORCE

In out last comments on this Directive, we noted that the phrase asking officers to "develop... the skills... to regularly resolve confrontations while minimizing the need to use force" (Policy Section 4), does not match the requirements of the Settlement Agreement, which calls for language saying "without resorting to force or [using] the least amount of force" (paragraphs 66 a&b). At the very least, we suggested, the phrase should say "minimizing the use of force" without the unnecessarily loaded word "need."

We also continue to recognize that the Bureau put more emphasis on de-escalation by making De- escalation the focus of Section 1. However, we remain very concerned that the Bureau keeps using the term "de-escalation" to mean two different things. The only way it should be used is to indicate verbal and physical means to lower the likelihood that a confrontation will end with violence (Sections 1.1, 1.2 and 1.4). Another term should be used to describe officers using less force on a person who's already been subjected to use of force as their resistance lowers (now Section 1.5), which is a good policy but should not be called "de-escalation." The Settlement Agreement also uses the term in this second way, but we still recommend another word (perhaps "abatement" or "mitigation" of force) so that officers do not continue to describe moving from using a Taser to using pepper spray, for instance, as "de-escalation." Section 1.1.1(3) still implies that making threats ("warnings") is a form of de-escalation, which it is not.

In the proposed changes, the definition of "de-escalation" has been sloppily rewritten (it uses the terms "use or force" [sic] and "the amount the amount" [sic]) and still reflects this dual use.

While the moving of the term "disengagement" to its own Section (new 1.3) helps clarify the difference between disengagement and de-escalation, the requirement that the benefits "clearly" outweigh the risks might use a less subjective term. Perhaps something more like how suspicion of criminal activity is noted: "it is more likely than not that disengagement provides more benefits than risks."

Another change in the draft is that "boxing in" appears to require the officers' cars to make contact with the suspect's vehicle. This would seem to be too restrictive on officers finding a nonviolent way to keep a driver from fleeing.

Two good new additions: (1) Section 10.1 now requires "unintentional uses of less lethal weapons in proximity to community members" to be investigated as Use of Force, and (2) new Section 11.1.4.1 says that officers who take "any official police action" while off duty (not just Use of Force) have to write reports by the end of their next scheduled shift. While a good start, the new Section 12.3.1 which requires a Supervisor involved in the use of force to call in another Supervisor to conduct an investigation should require that other Supervisor to be of a higher rank (or, as we have suggested repeatedly, the investigation should be done by a civilian oversight agency).

Another improvement is Section 13.4.2, which now requires Supervisors to note inconsistencies between officers' interviews and their written reports. And, Section 13.13 requires investigations of negligent discharges at training events to be handled by Detectives if an injury occurs, not just "death" as previously written.

In our comments on this Directive in July, 2014, November 2015, and July 2017 and March 2018 we asked the Bureau:

--to re-insert the words "physical or mechanical intervention" to the definition of Use of Force which were in the 2014 version of the Directive, regarding force used against physical resistance during "control holds and un-resisted handcuffing." The current version says "control holds and handcuffing without resistance do not constitute force." We still believe the Directive should be clear that any unsolicited touching of a civilian by a police officer is a use of force, just as any unwanted touching of an officer by a community member is considered assault on an officer;

--to replace the phrase "[the Bureau's commitment to public safety] may require" the use of force (Policy Section 2), with something that emphasizes force is always a choice; and

emphasizes force is always a choice; and

--to reinstate the sections on analysis of force confrontations to this Directive, rather than leaving them removed to Directive 315.30 Satisfactory Performance. There is currently no substantive reference to 315.30 in the Force policy.

We also previously expressed concerns about leeway given to officers to precipitate force using actions which are not Bureau-approved by saying officers could do so with "substantial justification." That exception still in the Directive in three places: Sections 5.3.2 (Member considerations), 6.4.3.2.1 (using pepper spray on a car's driver), and 8.5.9 (entering a car readily able to be driven).

The current Directive still is not as clear as it could be in letting officers know what is meant by "avoiding a use of a higher level of force" (Impact Munitions 6.4.2.1.3, Tasers 6.4.4.1.3 and 6.4.4.2.1), because there is no clear continuum explaining which options are considered lower. The Directive says that Impact Weapons/ Munitions and Tasers can be used against "active aggression" (6.4.1.1.1, 6.4.2.1.1, 6.4.4.1.1) while pepper spray can be used against physical resistance "or the intent to engage in physical resistance" (6.4.3.1.1). It seems that pepper spray is a lower use of force and thus should appear before the other "less lethals." Deadly force is authorized "to protect (officers) from what they reasonably believe to be an immediate threat of death or serious physical injury" or to stop a fleeing felon who poses such a threat (8.1). Between "less lethal" and Deadly Force are the Police Vehicle Intervention Strategies (Section 7). Some of the "higher level of force" can be gleaned from examining how certain force is investigated (Categories I-IV), though pointing a gun at someone (Category IV) is, in our minds, just as serious as using pepper spray on them (Category III).

The general call for officers to issue warnings before using force (Section 3) does not include concepts to ensure people understand the warnings. Both we and the Training Advisory Council suggested the Bureau address barriers such as mental health crisis and intoxicant impairment, as listed in Section 1.2 as reasons for lack of compliance, and we suggest cultural norms also be added in both places. We support the addition of the words "clear and intelligible" to describe warnings. New Section 3.1.1.1 removes Vehicle Intervention and Category IV force from the requirement for warnings. Perhaps there should be more specific exemptions since, as we noted above, Category IV includes pointing of a firearm.

The current Directive doesn't mention the suspect's impact on the public as a consideration under the Graham standard of "reasonableness," only Severity of the crime (5.1.2), Resistance/evading (5.1.3) and Threat (5.1.1). Time and available resources, which are crucial to de-escalation, are not mentioned. Instead the Directive says "a reasonableness inquiry is not limited to these [three] factors" (5.2).

With the use of a carotid choke hold in late August, we hope the Bureau will urgently address our concern that the hold is mentioned in the definition of deadly force and "serious use of force," as well as Section 10.2.1.4 with no restriction. The Bureau banned the use of that hold after the death of Lloyd "Tony" Stevenson in 1985.We still appreciate that deadly force is also defined as a "strike to the head, neck or throat with a hard object" (and that is investigated as deadly force in 10.2.1.5), but remain concerned there is an implied permission to use such tactics because there are no outright prohibitions in the policy. We noted Section 6.4.1.2.1 restricts the use of batons/impact weapons on the "head or throat, neck, spine or groin unless deadly force would be authorized."

Here the Bureau added a new policy (Section 6.4.2.1.6) allowing Impact Munitions to be used on "vicious or aggressive animals" if they interfere with safety or "the completion of a police mission." While such munitions are designed to be "less lethal" on humans, they are more likely to cause deadly injuries to smaller animals, so the threshold should be higher than "this animal is bugging me while I'm trying to do my job." (Also, new Section 6.4.2.1.7 is blank.)

The section restricting firing at moving vehicles (8.5.2) saying deadly force is authorized if there is an "immediate risk of death or serious physical injury" still has not reinstituted the old provision that such a threat has to come from something other than the vehicle. We thank the Bureau for adding Directive 630.05 on Vehicle Pursuits to the list of cross-references.

___Weapons Use in Force Directive

The Directive includes policies on Less Lethal Weapons, Batons, Conducted Energy Weapons (Tasers), Aerosol Restraints (Pepper Spray), Impact Munitions, Riot Control Agents, and Hobbles under the general category of Less Lethal Weapons (Section 6). We still appreciate that the Directive cautions such weapons "can still result in death or serious injury" (Section 6.1). However, we continue to

appreciate that the Directive cautions such weapons "can still result in death or serious injury" (Section 6.1). However, we continue to urge the Bureau to carry forward the warning from the definition of "Impact Munition" in Directives 1020 & 1021 which says such weapons are "not to be considered non-lethal."

We think it is an improvement that Section 6.1 was changed, per the ACLU's suggestion, to suggest "less lethals" be used on "threatening or actively resistive" subjects rather than "confrontational or resistive" ones. However, "actively resistive" might be more narrowly defined because (a) sometimes people's natural reactions to being touched, grabbed or roughed up is not "active resistance," and (b) officers often yell out "stop resisting" when someone is not doing anything in order to justify the use of force to witnesses.

It is interesting to re-read in this Directive that the 40 MM launcher should not be aimed at a person's head or chest or other vulnerable areas (Section 6.4.2), since that is what appears to have happened in one or two cases on August 4. They also are not supposed to be used at close range. It seems there should be more specific restrictions, too, on the various munitions that can be fired from the launchers including "Aerial Distraction Devices," pepper balls, foam batons and whatever other monstrosities the industry is making available these days. There should also be serious consequences for their misuse.

We remain concerned that officers are allowed to use "arcing" (creating an electrical "zap" with the Taser) in the air as a means of warning a suspect of impending use of force (6.4.4.1.5), especially since warning shots from a firearm are prohibited (Section 8.3.1). The Directive also still allows a Taser to be used to threaten or coerce a person to "manage a potential or actual physical confrontation" (6.4.4.2.2), which is not a form of de-escalation. Section 6.4.4.1.5 also allows using the Taser's laser sight as a means of warning, which is similarly unreasonable. We continue to remind the Bureau that "Laser Light Only" was tracked until 2008 and the Auditor and the Community/Police Relations Committee both suggested that practice should be reinstated.

As noted in our previous comments, we do not find the argument persuasive that the DOJ told the Bureau the use of the term "excited delirium" (Section 9.8, requiring EMS to be called), is a "term of art" so can remain in the policy. "Excited delirium" is not defined in the Directive, is not a medically accepted term, and was objected to by others in the community other than Portland Copwatch. Taser International (now Axon) uses this term to explain why hundreds of people have died since 2002 after being struck by their allegedly safe electroshock weapons.

As in 2017 and in March, our greatest concern about the Taser provisions is they still do not seem to be in line with the Ninth Circuit Court of Appeals, whose ruling said Tasers are a serious enough use of force that they can only be used when there is an "active threat." (The ACLU also referenced the Bryan v. MacPherson case in their comments.) While the Directive prohibits Taser use against a person who is merely running away, it allows use with a "reasonable belief that the subject presents a risk of death of serious injury" (Section 6.4.4.1.4).

Previously it was prohibited to use Tasers against persons engaged in passive resistance, but Section 4.1 prohibits force to overcome such resistance, but only if the resistance "does not impede a lawful objective." We continue to think this is a license for officers to use violence against non-violent protestors (or criminal suspects). Section 6.4.6.2.1 specifically says riot control agents and "area impact weapons" can't be used in cases of passive resistance that, again, "does not impede a lawful objective." These loopholes need to be more narrowly defined or removed.

The list of persons against whom less-lethal weapons should not be used (Section 6.2) still leaves off the old prohibition on using them on people over the age of 60. Section 10.3.1.12 requires any use against people in restricted categories (people under 15, medically fragile or pregnant) to be investigated as a Category II (high level) Use of Force, regardless of which weapon is used.

We stand by this comment: "While it is commendable (and in line with the Settlement Agreement) that officers should not use Tasers against persons who seem to be in mental health crisis (Section 6.4.4.2.1), there is still no consideration for people who may have epilepsy or other conditions making them vulnerable to Taser use."

Three years after being cut, the Bureau has not reinserted sections detailing what should go into a force report, requiring a supervisor to check on a wounded civilian who is hospitalized, photographing injuries, and explaining why a Taser was used. The person who is subjected to force is not a mandatory part of the Supervisor's on-scene force investigation (Section 12), except that they be given

subjected to force is not a mandatory part of the Supervisor's on-scene force investigation (Section 12), except that they be given medical attention (12.2). Section 13.4.6 says Supervisors should "attempt" to interview the subject, but there is no caution against asking questions about potential underlying criminal activity. PCW continues to call for the "Independent" Police Review (IPR) or other such non-police agency to respond to scenes of use of force to avoid such legal complications.

The current Directive still seems to authorize use of anything other than Batons as an impact weapon if an officer "reasonably believes that other authorized physical force responses are not available" (Section 6.4.1.1.1.1).

We repeat that Pepper Spray has been known to cause or contribute to the deaths of numerous people (including Dickie Dow in Portland in 1998), so we are glad it is considered on the same level as Tasers (1-2 cycles) and impact weapons (Section 10.4.1.2), even though the threshold for use (physical resistance) is lower. It's not clear why reporting on the circumstances leading to the discharge of Less Lethal Weapons/Munitions (11.2.1.1) and Tasers (11.2.3.1.1) are required, but there are no specific reporting requirements for pepper spray.

Furthermore, we continue to have concerns that Incident Commanders in crowd situations can authorize the use of chemical agents to disperse a crowd (6.4.6.1.1) since persons not engaged in "physical resistance" or "active aggression" are being subjected to such gassing. The admonition "to minimize exposure to non-targeted persons" (Section 6.4.3.2.2) is meaningless when officers use pepper spray or other chemicals so indiscriminately. Also, a previous restriction to only use the spray from four feet away or more has still not been reinserted.

____Reporting Requirements in Force Directive

We are still concerned that this Directive (and 905.00) only asks for limited after action reporting on "crowd events," which used to be mandatory. Now reporting only has to happen after "launched impact munitions with contact" (10.3.1.6), use of "riot control agents and/or area impact munitions"(10.3.1.11), "impact weapon with injury requiring hospital treatment" (10.3.1.7), and various uses of force which are sometimes used but not necessarily particular to crowd control. Reports that only go up to the Responsibility Unit Manager (Lieutenant, Captain or Commander), not the Chief's office, are to be written for "use of aerosol restraints" (10.4.1.2), "use of impact weapon, without injury" (10.4.1.4), "launched impact munitions, without injury" (10.4.1.7) and other various uses of force. A new addition to Section 10.4.1.8 wisely says that Taser deployment has to be follow up with an After Action report regardless of "successful application or [officer] intent." This might be best moved up to be next to 10.4.1.1 about Tasers which are fired less than three times, and rephrased so that "successful application" clearly means whether or not the person receives a shock from the device and is incapacitated.

In March we suggested that the word "significant" be removed from Section 13.4.10.2.10 requiring Supervisors to report information to the Professional Standards Division (PSD) if there is evidence of "significant" misconduct, as any misconduct during a force incident should be investigated. Instead, the Bureau only changed PSD to the Lieutenant at PSD.

CONCLUSION

Portland Copwatch would still like to see more of an open dialogue around the Directives, perhaps under the auspices of the PCCEP. We also note that while these comments are easier for PCW to make since we've looked at all of these Directives in previous forms, the timelines are still restrictive for many people, including groups who only meet once a month.

Portland Copwatch

Q2 Contact Information (optional)

Name

Email Address

1020.00, Weapons Administration

Refer:

- DIR 1010.00, Use of Force
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1021.00, Weapons Qualifications

Definitions:

- Aerosol Restraints: A hand-held aerosol spray containing organic capsaicin oils derived from pepper plants, which affects individuals for several minutes, designed to impair vision and breathing. Most effects dissipate within 30-40 minutes.

- Ammunition: Projectiles, along with their fuses and primers, which can be fired from a firearm.

- AR-15: A Bureau approved and issued carbine rifle.

- Baton: An authorized instrument designed for blocking, jabbing, striking, or to apply control holds while engaged in a police action. Also known as an impact weapon not intended or likely to cause death of a subject.

- Certified Armorer (CA): A sworn member who has successfully completed armorer training in a weapons system currently used by Bureau personnel, and is designated as an approved armorer by the Training Division.

- Certified Instructor (CI): A sworn member who has successfully completed a Bureau or, when the Bureau does not have a certification process, an accredited instructor school in a weapons system and is currently designated as a weapons system instructor by the Training Division. Certified instructors may qualify members in any weapon system during a qualification range period; however, only certified instructors of a specific weapon system are authorized to instruct members who are conditionally qualified in that specific weapon system.

- Conducted Electrical Weapon (CEW): A weapon, including Tasers, designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses.

- Firearm: A weapon, by whatever name known, which is designed to expel a projectile by the action of powder.

- Impact Munitions: Bureau-issued munitions that are deployed by less lethal certified officers and are fired from a launcher. Impact munitions are not intended to produce deadly effects, but just as with other impact weapons, they can cause serious injury or death. Although this munition is designed to be less lethal, it is not to be considered non-lethal.

- Less Lethal Launcher: A Bureau-issued weapon system capable of delivering 40mm munitions. Bureau issued launchers designated as less lethal launchers will be conspicuously marked.

- Primary Firearm: A Bureau-approved firearm (Glock 17, 19, 26) carried on duty.

- Secondary Firearm: A Bureau-approved firearm other than the primary firearm that is carried in a concealed manner as a backup firearm.

- Shotgun: A Bureau-approved, 12-gauge, pump-action shotgun.

Policy:

1. This policy governs the authorization, safe management, secure storage, inspection, maintenance, issuance, and forfeiture of Bureau-approved weapons.

2. Members are required to exercise due caution at all times while loading, unloading, and transporting firearms. Safety is paramount, and PPB shall hold its members to the strictest of standards regarding firearms safety.

3. Directive 1010.00, Use of Force, governs the use of all Bureau-issued weapons and any other weapon used in the exercise of police powers.

4. Members in probationary status and members who are in a non-qualified status are required to successfully complete firearm training and qualify with duty firearms and other service firearms before they are permitted to carry and use firearms.

Procedure:

1. Safe keeping and handling:
   - 1.1. Vehicle storage of primary and secondary firearms, shotguns, AR-15s, and less lethal launchers.
     - 1.1.1. Other than while parked in the sallyport at any law enforcement facility and lodging a prisoner, any firearms issued by the Bureau or personally owned shall not be left in any City vehicle without securing the weapon with one of the following Bureau-approved security devices: 1) locked firearm storage box secured to the vehicle; 2) chain attached to the trunk of the vehicle specifically made for securing firearms; 3) secondary trunk lock approved by the Bureau Fleet Manager; or 4) vehicle's weapon locking mount. Simply locking the firearm in the trunk of a City vehicle without a secondary lock is prohibited.
     - 1.1.2. When a weapon is secured in a vehicle, members shall lock their vehicles when the vehicle is left unattended. If a member is unable to lock the vehicle under exigent circumstances, members shall make reasonable efforts to have the vehicle locked as quickly as possible.
     - 1.1.3. If a vehicle has a weapon secured inside but is towed, parked in a service garage, or absent duty need, is left unattended for an unreasonable period of time, members shall immediately notify an on-duty supervisor, who shall ensure that the weapon is returned to the precinct armory.

1.1.4. If electrical or mechanical failure renders the vehicle's weapon mounting lock inoperable, the immediate supervisor shall ensure that the vehicle is placed in the most secure facility available at the precinct and the member shall notify a morning relief supervisor in writing of the need to remove the weapon.

1.1.5. The shotgun and less lethal launcher shall be secured with an approved security device in the vehicle after ensuring the action is closed on an empty chamber, safety on, if applicable.

1.1.6. The AR-15 shall be secured with an approved security device in the vehicle after ensuring that the weapon is in the carry condition (bolt forward on an empty chamber, loaded magazine in the magazine well and the selector in the safe position).

1.2. Members operating in a patrol capacity shall not carry weapons on their external vests, except the following:

1.2.1. A conducted electrical weapon (CEW) when carried in a retention holster and in a location authorized by the Training Division.

1.3. A member shall not carry a firearm if they are impaired by intoxicants to a noticeable or perceptible degree.

1.4. Members shall not unnecessarily brandish any firearm.

1.5. Members shall not store any firearm on Bureau premises, except where the place of storage is locked.

1.6. Members shall follow the rules and regulations of correctional facilities regarding carrying and storing of firearms.

1.7. Members shall exercise due care in securing and storing their weapons while off duty to prevent unauthorized access.

2. Firearms.

2.1. All sworn members shall carry one Bureau-authorized primary firearm, whether in uniform or in plain-clothes assignments.

2.1.1. While in uniform, members are authorized to carry:

2.1.1.1. Glock 17, 9mm parabellum.

2.1.1.2. Glock 19, 9mm parabellum.

2.1.2. While in a plain-clothes assignment, members are authorized to carry:

2.1.2.1. Glock 17, 9mm parabellum.

2.1.2.2. Glock 19, 9mm parabellum.

2.1.2.3. Glock 26, 9mm parabellum.

2.1.3. All Glock firearms carried on duty shall be black in color.

2.1.4. The Responsibility Unit (RU) Manager may grant an exception to this firearm requirement based on investigative needs (e.g., undercover).

2.1.5. Firearms shall be loaded and unloaded in the designated safe areas within each precinct or division as prescribed by the Training Division.

2.2. All sworn members in a uniform assignment shall use the standard Bureau-issued holster specified by the Training Division while on duty.

2.2.1. Members can submit a written request to use a personal holster to the Chief of Police through channels. If a waiver is granted, the requesting member is responsible for the purchase, repair, maintenance, and replacement of the non-issued holster. The member's RU Manager shall notify the Training Division of the waiver.

2.3. Primary Firearm.

2.3.1. Issuance.

2.3.1.1. Primary duty firearms (Glock firearms) shall be issued to all newly-appointed sworn members.

2.3.1.1.1. Members may request an authorization letter from the Training Division to purchase a firearm for duty use from an outside vendor. The letter shall comply with all state and federal requirements.

2.3.1.2. Sworn peace officers who serve as Portland Fire Bureau Arson Investigators may be issued a primary duty firearm upon request. All Bureau weapons qualifications requirements must be satisfied prior to issuance.

2.3.2. Modifications.

2.3.2.1. Only certified armorers and certified firearms instructors shall modify or perform repairs on Glocks carried on duty.

2.3.2.2. All on-duty firearms shall have the Glock-recognized standard trigger pull weight of 5.5 pounds. PPB prohibits modification of trigger pull, weight above or below this standard.

2.3.2.3. Non-factory sights, such as high visibility or night-sights, are authorized at the member's expense and must be installed by a certified instructor or certified armorer. The member shall qualify with the non-factory sights prior to carrying the firearm on duty. Lasers and red dot sights (e.g., GLOCK MOS) are not authorized.

2.3.2.4. Slip-on or adhesive-type grips that are of a non-permanent nature are authorized at the member's expense.

2.3.2.5. Members may have the following Glock factory parts installed by a certified firearms instructor or certified armorer: extended slide stop lever, extended magazine release, and a +2 magazine floor plate.

2.3.2.6. The slide, frame, or internal parts of the firearm shall not be modified in any way, except in the course of repair by a certified firearms instructor or certified armorer.

2.3.2.7. Only Glock factory parts shall be used in the firearm, except as outlined in 2.3.2.3.

2.4. Secondary Firearm.

2.4.1. Within the parameters of this policy, members may choose to carry one secondary firearm, but are not required to do so.

2.4.1.1. A member may request to carry more than one secondary firearm. All requests to carry additional secondary firearms must be authorized by the Training Division Captain.

2.4.2. Prior to carrying a secondary firearm, members are required to receive approval to carry the secondary firearm from the Training Division Captain and they must qualify with the secondary firearm.

2.4.2.1. At the time of the initial qualification, the certified instructor (CI) or designee shall document the serial number of the secondary firearm and qualification type in the Bureau's Learning Management System (LMS).

2.4.2.2. The CI or designee shall verify the serial number of the secondary firearm on an ongoing basis at the time of each subsequent qualification.

2.4.3. Members shall notify their command-level supervisors upon qualification or disqualification of any secondary firearm they usually carry. Upon reassignment, members shall notify their command-level supervisor of the secondary firearm they usually carry.

2.4.4. No firearm shall be carried on duty that has not been inspected by a Training Division CI or certified armorer (CA) for that class of firearm. Members must also qualify on the firearm in accordance with Directive 1021.00, Weapons Qualifications, prior to carrying it on duty.

2.4.5. The firearm must be a double action revolver or a semi-automatic pistol. Additionally, the revolver or pistol must have a minimum capacity of at least five rounds. The revolver or pistol shall be a .38 caliber, .380 acp caliber, or 9mm parabellum.

2.4.6. Secondary firearms shall be carried in a holster and in a concealed manner.

2.4.7. No modification shall be made to any secondary firearm unless approved and inspected by a certified instructor.

2.4.8. The approved secondary firearm should be used only when the primary sidearm is not available or is inoperable.

3. Shotgun.

3.1. Only shotgun qualified members shall carry a Bureau-issued shotgun, except under exigent circumstances.

3.2. While on duty, members shall only use Bureau-issued shotguns.

3.3. When not in use, the shotgun shall be stored in a Bureau-approved armory in the following conditions: action open, safety on, and verified to have an empty chamber and unloaded magazine tube.

3.4. When checking out a shotgun from the armory or secure storage area, members shall conduct a function check to ensure the shotgun is working properly.

3.5. At the beginning of their shifts, members shall load the magazine tube of the shotgun with only 00 buckshot ammunition or only rifled slug ammunition. Members shall not have a combination of these two rounds loaded in the magazine tube. Members shall load the side saddle with spare rounds of the type not loaded in the magazine tube. If tactically feasible, members should utilize the most appropriate type of ammunition based on the totality of the circumstances.

3.6. At the beginning and end of shift, the shotgun shall be loaded and unloaded in the designated safe areas within each precinct or division as prescribed by the Training Division.

3.7. A Shotgun Issue Log (Precinct/Division Equipment) shall be maintained by the precinct to record the daily issue and check-in of shotguns. The log shall be reviewed during each shift by a supervisor.

3.8. Non-uniformed sworn members may check out shotguns from a precinct with the permission of a precinct supervisor.

4. AR-15.
   4.1. Only AR-15 qualified members shall carry Bureau-issued and personally assigned AR-15s, except under exigent circumstances.

   4.2. While on duty, members shall only use Bureau-issued AR-15s.

   4.3. When checking out their issued AR-15 from the armory or secure storage area, members shall conduct a function check to ensure the AR-15 is working properly, to include checking the attached light and sighting system.

   4.4. The AR-15 shall be loaded into the carry condition and unloaded in the designated safe areas within each precinct or division as prescribed by the Training Division.

   4.5. When not in the carry condition, all AR-15s shall be unloaded with a yellow safety block inserted into the magazine well, the action locked open, and with the selector in the safe position.

   4.6. An AR-15 may be transported to a sworn member's residence the night before and night after an approved training session, with approval from the RU Manager. The AR-15 must be transported directly to and from the residence, the training site, and RU. The AR-15 shall not, under any circumstances, be left unattended in a personal vehicle. While in transit, members shall adhere to the vehicle storage procedures outlined in this directive. Members shall store the AR-15 in a lockable rifle case or a lockable gun safe while at the residence.

5. Less Lethal Weapons.
   5.1. Conducted Electrical Weapon.
      5.1.1. Only trained and certified members are authorized to carry a CEW. Members shall refer to 1021.00, Weapons Qualifications, for additional guidance on certification requirements.
      5.1.2. Certified members shall only carry Bureau-issued CEWs and cartridges.
      5.1.3. All members of the rank of officer and sergeant in a uniform assignment shall carry a CEW, unless waived by the overseeing Assistant Chief. All members at the rank of Lieutenant and above may carry a CEW, if preferred. For all other units, the carrying of a CEW remains at the discretion of the RU Manager.
      5.1.4. CEWs shall be carried in a position on the member's body such that it can be drawn with the support-hand of the member.
      5.1.5. Members carrying the CEW are responsible for checking operability at the start of each shift. Members shall also perform, at a minimum, weekly spark tests to ensure weapon functionality.

5.1.6. Members shall exercise due care in securing and storing their CEW while off duty to prevent unauthorized access.

5.2. Aerosol Restraints.

5.2.1. Members shall be trained in the use of aerosol restraints prior to issuance.

5.2.2. All members in a uniform assignment shall carry Bureau-issued aerosol restraints in a manner such that the tool is immediately available for use, if necessary.

5.3. 40 mm Less Lethal Launchers and Munitions.

5.3.1. Only members trained on and certified in Bureau-issued less lethal launchers and impact munitions are authorized to carry and use those tools in their designated capacity.

5.3.2. While on duty, members shall only use Bureau-issued less lethal launchers and impact munitions.

5.3.3. Sworn members at the rank of officer and who are certified less lethal launcher operators in uniform assignments shall carry a less lethal launcher in their patrol vehicle when their primary duty is call response.

5.3.3.1. Sworn members at the rank of sergeant and above who are certified less lethal launcher operators in uniform assignments may carry a less lethal launcher.

5.3.4. Members shall conduct a function check to ensure the less lethal launcher is working properly, including the optic and sling prior to each shift. In addition, members shall inspect each of the impact munitions loaded in the buttstock and leg pouches.

5.3.5. Less lethal launchers shall only be loaded with Bureau-issued impact munitions in a safe manner consistent with their training (i.e., not loaded until needed). Certified members are required to visually and physically inspect each impact munition during loading, if feasible.

5.3.6. When not deployed, the launcher shall be secured in a vehicle with an empty chamber.

5.3.7. The launcher shall have two impact munitions carried on the butt stock, and the member operator shall have a Training-approved carrier loaded with at least five additional rounds of 40 mm impact munitions at the beginning of their shift.

5.3.8. Additional 40 mm impact munitions shall only be stored in a Training-approved carrier.

5.3.9. Members who no longer wish to carry a less lethal launcher can request de-certification by routing a memorandum through channels to the Training Manager.

5.3.10. All less lethal launchers and ammunition shall be removed from vehicles and stored in their respective Responsibility Unit's armory when not in use or at the end of shift. If the operator has an issued leg pouch for ammunition, it shall be stored in a locker.

5.3.11. Specialty Munitions.

5.3.11.1. Only trained and certified members are authorized to carry specialty munitions. Members shall refer to 1021.00, Weapons Qualifications, for additional guidance on certification requirements.

5.3.11.2. Certified members shall only carry Bureau-issued specialty munitions.

5.3.11.3. Members who are certified to carry the less lethal launcher and non-patrol specialty munitions may carry those munitions on patrol when authorized by the RU Manager.

5.3.11.4. All certified members of the rank of officers and sergeants shall carry specialty munitions when authorized to do so in the performance of their duties as required by that specialty unit and/or at the discretion of the incident commander.

5.3.11.5. Specialty munitions shall be stored in a safe and secure manner in the less lethal weapon's supplied carrier, if available.

5.3.12. While on duty, members are responsible for securing the less lethal launcher during transport in patrol vehicles.

5.4. Less Lethal Impact Weapons (Batons).

5.4.1. Members shall receive training on the PR-24 side-handled baton and the asp (straight expandable baton). These are the only batons that are authorized for general member use.

5.4.1.1. Specialty units (e.g., RRT) shall receive training on long baton use.

5.4.2. The PR-24 side-handled baton is issued to every sworn member, but shall only be used in specific tactical situations (e.g., riot or crowd control) as directed by an incident commander.

5.4.3. The asp baton is issued to every sworn member. Members who choose to carry the asp baton shall do so in a manner such that the tool is immediately available to use, if necessary.

6. Specialized Weapons.

6.1. The Chief may authorize, in writing, specialized weapons and ammunition for use by designated units (e.g., SERT) that are not authorized for all members. Only members assigned to these designated units, while in that assignment, may use the special firearms authorized for that unit.

6.2. If a member leaves a specialized unit, it is that member's responsibility to return all specialized equipment and weapons within five working days to the unit that issued the equipment. The supervisor must affirmatively acknowledge that all weapons and equipment are returned by the departing member. This may be done by Bureau email copied to their respective RU Manager.

7. Ammunition.

7.1. Members shall only use Bureau-issued and authorized ammunition while on duty.

7.2. All magazines for the primary firearm shall be loaded to capacity.

7.2.1. Members are required to carry at least two magazines in addition to the magazine in their primary firearm while in uniform.

7.2.2. Members are required to carry at least one magazine in addition to the magazine in their primary firearm while in a plain-clothes assignment, unless exempted by their RU Manager.

7.3. Members shall be issued new duty ammunition at least annually.

7.4. The Training Division shall determine which ammunition is authorized, subject to the approval of the Chief of Police.

8. Training.
   8.1. The Training Division shall approve training and certification courses for every Bureau-issued or approved weapon. Members shall refer to 1021.00, Weapons Qualifications, for additional guidelines.

9. Weapons Cleaning and Maintenance.
   9.1. After discharging a weapon on duty for qualifications, training, practice, or in the official course of duty, members shall clean their weapon(s) in a manner consistent with Bureau standards prior to returning to duty unless exigent circumstances exist. Supervisors shall ensure that members are provided an adequate opportunity to thoroughly clean their weapons(s) in a manner that is consistent with Training Division prescribed standards.
      9.1.1. However, in accordance with Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, involved member(s) shall surrender the weapon used in a deadly force incident to Detectives or criminalists.

   9.2. When weapons become contaminated, fouled, thoroughly wet, or dirty while on duty, members shall clean the weapon as soon as possible, or prior to the end of the shift. The Training Division shall provide gun-cleaning equipment at the Justice Center and Training Complex ranges. Precinct Commanders shall provide gun-cleaning equipment at the precinct.

   9.3. Firearms that are the property of the Bureau shall only be repaired by a CA for the respective weapon system, or a qualified contractor retained by the Training Division.

   9.4. Any firearm authorized by the Bureau to be carried on-duty and found to be malfunctioning or needing service shall not be carried and shall be promptly presented to a CA or the Training Division for inspection. Any firearm determined to be in need of service or repair during an inspection will be immediately removed from service. If the firearm is the member's primary duty firearm, the Training Division will issue a replacement firearm to the member until the duty firearm is rendered serviceable.

   9.5. All maintenance and repair documentation is the responsibility of the Training Division and that Division will keep on file such documentation for each firearm.

10. Responsibility, Accountability, and Control.
   10.1. Members.
      10.1.1. Members are responsible for maintaining individually issued weapon(s). Members shall store their weapons in a secure manner.

   10.2. Supervisors.
      10.2.1. Supervisors are responsible for monitoring issuance procedures for weapons that are not assigned on an individual basis. Supervisors shall determine when members are required to carry additional weapons, such as the shotgun and less lethal launcher.
      10.2.2. Supervisors are authorized to carry additional impact munitions. Impact munitions shall be stored in an approved container authorized by the Training Division.

10.2.3. Supervisors are responsible for securing all weapons (shotguns, AR-15s, less lethal weapons) for members who have been injured or are unable to return their weapon(s) to the armory.

10.3. RU Managers.

10.3.1. RU Managers are responsible for the security, inventory, storage, issuance, cleaning, maintenance, and auditing of weapons assigned to their RU. Weapons include shotguns, AR-15s, and less lethal weapons (CEWs, launchers).

10.3.1.1. RU Managers shall ensure that armories established at their units meet the minimum following requirements:

10.3.1.1.1. Maintained in accordance with Directive 60.60, Standard Operating Procedures (SOPs). SOPs will address storage protocols of weapons, the maintenance of a sign-in/sign-out log, and requirements of members prior to signing weapons in or out;

10.3.1.1.2. Managed by a certified armorer responsible for inventorying and servicing weapons;

10.3.1.1.3. Restricted entry to authorized members only;

10.3.1.1.4. Prohibit the storage of loaded weapons; and

10.3.1.1.5. Ensure weapons are locked when not in use.

10.3.2. Any firearm, less lethal launcher or CEW in need of reassignment shall be transferred to the Training Division and entered into the Police Bureau's inventory.

10.3.3. RU Managers are responsible for ensuring that shotguns and less lethal launchers within their RU or assigned to members within their RU are inspected, at a minimum, annually.

10.3.3.1. RU Managers shall ensure shotgun and less lethal launcher inspections include, but are not limited to, an examination of the cleanliness and proper lubrication of the weapon, a review for damage or unauthorized modifications, verification of the weapon's serial number, test firing, and assessment of the weapon's sighting.

10.3.3.2. The Tactical Operations Division (TOD) Manager, or designee, is responsible for ensuring that specialty weapons within SERT are inspected, at a minimum, annually.

10.3.3.3. The RRT Manager, or designee, is responsible for ensuring that specialty weapons within the unit are inspected, at a minimum, annually.

10.3.4. RU Managers shall have the discretion to issue and assign less lethal weapons to any certified members in the RU.

10.3.5. RU Managers shall ensure that less lethal launchers are assigned in a manner that optimizes their continuous availability throughout their precinct for emergency deployments.

10.3.6. RU Managers shall ensure that their assigned members are provided with the opportunity to comply with the weapons cleaning and maintenance section of this directive.

10.3.7. RU Managers shall ensure that the provisions of this directive are followed within their RU. Members shall refer to Directive 1200.00, Inspections, Maintenance, Responsibility, and Authority for additional guidance.

10.4. Training Division.

10.4.1. The Training Division Manager is responsible for procuring and controlling the Bureau's inventory of all weapons, including allocations, inspections, and maintenance.

10.4.2. The Training Division shall procure, inventory, track and issue CEWs and cartridges, and less lethal launchers and munitions to other units.

10.4.3. The Training Division Manager shall approve all modifications to primary firearms, shotguns, AR-15s, and less lethal launchers. Members shall not make any modifications without written authorization from the Training Division Manager unless otherwise allowed within this directive.

10.4.4. When a weapon no longer meets Bureau requirements or serves Bureau purposes, the Training Division will dispose of the weapon in accordance with Directive 660.10, Property and Evidence Procedure.

11. Member Process to Purchase Bureau-Issued Firearms.

11.1. All firearm sales shall comply with applicable federal and state regulations.

11.2. Sworn members (who have completed background checks) may acquire certain Bureau-approved weapons from the Training Division. A retiring member with a City-issued primary firearm may purchase that firearm at the original price paid by the City, plus any applicable Federal Excise Tax (FET).

11.3. Any sworn member or arson investigator who requests to purchase a firearm upon leaving the Bureau must receive approval from PSD to check for open Internal Affairs (IA) cases. If there are no open IA cases, and PSD agrees to approve the purchase, PSD will sign off on the separation checklist allowing the member to purchase their firearm. If the member has open cases, the cases shall be reviewed on an individual basis to determine eligibility to purchase a firearm.

12. Off duty firearms.

12.1. The carrying and using of firearms by members while off duty based on their authority as law enforcement officers is permitted by the Chief of Police. The Chief of Police may rescind the privilege should circumstances dictate (e.g., administrative leave, disciplinary action).

12.2. Members shall carry their Bureau identification at all times when armed and in public, whether on duty or off duty.

13. Forfeit and replacement of firearms.

13.1. When a member's primary firearm is confiscated as evidence following an application of deadly force, the member shall be provided a Bureau-owned firearm that is the same make, model, and caliber for temporary use.

History:

- Originating Directive Date: 07/21/17
- Last Revision Signed: 12/20/19
  - Effective Date: 01/19/20
- Next Review Date: 01/19/21

1020.00, Weapons Administration

Refer:

- DIR 1010.00, Use of Force
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1021.00, Weapons Qualifications

Definitions:

- Aerosol Restraints: A hand-held aerosol spray containing organic capsaicin oils derived from pepper plants, which affects individuals for several minutes, ~~often incapacitating them.~~designed to impair vision and breathing. Most effects dissipate within 30-40 minutes.

- Ammunition: Projectiles, along with their fuses and primers, which can be fired from a firearm.

- AR-15: A Bureau approved and issued carbine rifle.

- Baton: An authorized instrument designed for blocking, jabbing, striking, or to apply control holds while engaged in a police action. Also known as an impact weapon not intended or likely to cause death of a subject.

- Certified Armorer (CA): A ~~person~~sworn member who has successfully completed armorer training in a weapons system currently used by Bureau personnel, and is designated as an approved armorer by the Training Division.

- Certified Instructor (CI): A ~~person~~sworn member who has successfully completed a Bureau or, when the Bureau does not have a certification process, an accredited instructor school in a weapons system and is currently designated as a weapons system instructor by the Training Division. Certified instructors may ~~only~~ qualify members in ~~the weapons~~any weapon system ~~in which they are~~ during a qualification range period; however, only certified instructors of a specific weapon system are authorized to instruct members who are conditionally qualified in that specific weapon system.

- Conducted Electrical Weapon (CEW): A weapon, including Tasers, designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses.

- Firearm: A weapon, by whatever name known, which is designed to expel a projectile by the action of powder.

- Impact Munitions: Bureau-issued munitions that are ~~used~~deployed by ~~patrol~~less lethal certified officers and are fired from a launcher. Impact munitions are not intended to produce deadly effects, but just as with other impact weapons, they can cause serious injury or death. Although this munition is designed to be less lethal, it is not to be considered non-lethal.

- Less Lethal Launcher: A Bureau-issued ~~launcher~~weapon system capable of delivering ~~impact~~40mm munitions. Bureau issued ~~shotguns~~launchers designated as less lethal launchers will be conspicuously marked.

- Primary Firearm: A Bureau-approved firearm (Glock 17, 19, 26) carried on duty.

- Secondary Firearm: A Bureau-approved firearm other than the primary firearm that is carried in a concealed manner as a backup firearm.

- Shotgun: A Bureau-approved, 12-gauge, pump-action shotgun.

Policy:

1. This policy governs the authorization, safe management, secure storage, inspection, maintenance ~~and~~, issuance, and forfeiture of Bureau-approved weapons.

2. Members are required to exercise due caution at all times while loading, unloading, and transporting firearms. Safety is paramount, and PPB shall hold its members to the strictest of standards regarding firearms safety.

3. Directive 1010.00, Use of Force, governs the use of all Bureau-issued weapons and any other weapon used in the exercise of police powers.

4. Members in probationary status and members who ~~return from unarmed~~are in a non-qualified status are required to successfully complete firearm training and qualify ~~for~~with duty firearms and other service firearms before they are permitted to carry and use firearms.

Procedure:

1. Safe keeping and handling:
   1.1. Vehicle storage of primary and secondary firearms, shotguns, AR-15s, and less lethal launchers.
      1.1.1. ~~Any~~Other than while parked in the sallyport at any law enforcement facility and lodging a prisoner, any firearms issued by the Bureau or personally owned shall not be left in any City vehicle without securing the weapon with one of the following Bureau-approved security devices: 1) locked firearm storage box secured to the vehicle; 2) chain attached to the trunk of the vehicle specifically made for securing firearms; 3) secondary trunk lock approved by the Bureau Fleet Manager; or 4) vehicle's weapon locking mount. Simply locking the firearm in the trunk of a City vehicle without a secondary lock is prohibited.
      1.1.2. When a weapon is secured in a vehicle, members shall lock their vehicles when the vehicle is left unattended. If a member is unable to lock the vehicle under exigent circumstances, members shall make reasonable efforts to have the vehicle locked as quickly as possible.
      1.1.3. If a vehicle has a weapon secured inside but is towed, parked in a service garage, or absent duty need, is left unattended for an unreasonable period of time, members shall immediately notify an on-duty supervisor, who shall ensure that the weapon is returned to the precinct armory.

1.1.4. If electrical or mechanical failure renders the vehicle's weapon mounting lock inoperable, the immediate supervisor shall ensure that the vehicle is placed in the most secure facility available at the precinct and the member shall notify a morning relief supervisor in writing of the need to remove the weapon.

1.1.5. The shotgun and less lethal ~~shotgun~~launcher shall be secured with an approved security device in the vehicle after ensuring the action is closed on an empty chamber, safety on, if applicable.

1.1.6. The AR-15 shall be secured with an approved security device in the vehicle after ensuring that the weapon is in the carry condition (bolt forward on an empty chamber, loaded magazine in the magazine well and the selector in the safe position).

1.2. Members operating in a patrol capacity shall not carry weapons on their external vests, except the following:

1.2.1. A conducted electrical weapon (CEW) when carried in a retention holster and in a location authorized by the Training Division.

~~1.2.~~1.3. A member shall not carry a firearm if they are impaired by intoxicants to a noticeable or perceptible degree.

~~1.3.~~1.4. Members shall not unnecessarily brandish any firearm.

~~1.4.~~1.5. Members shall not store any firearm on Bureau premises, except where the place of storage is locked.

~~1.5.~~1.6. Members shall follow the rules and regulations of correctional facilities regarding carrying and storing of firearms.

~~1.6.~~1.7. Members shall exercise due care in securing and storing their weapons while off duty to prevent unauthorized access.

2. Firearms.

2.1. All sworn members shall carry one Bureau-authorized primary firearm, whether in uniform or in plain-clothes assignments.

2.1.1. While in uniform, members are authorized to carry:

2.1.1.1. Glock 17, 9mm parabellum.

2.1.1.2. Glock 19, 9mm parabellum.

2.1.2. While in a plain-clothes assignment, members are authorized to carry:

2.1.2.1. Glock 17, 9mm parabellum.

2.1.2.2. Glock 19, 9mm parabellum.

2.1.2.3. Glock 26, 9mm parabellum.

2.1.3. All Glock firearms carried on duty shall be black in color.

2.1.4. The Responsibility Unit (RU) Manager may grant an exception to this firearm requirement based on investigative needs (e.g., undercover).

2.1.5. Firearms shall be loaded and unloaded in the designated safe areas within each precinct or division as prescribed by the Training Division.

2.2. All sworn members in a uniform assignment shall use the standard Bureau-issued holster specified by the Training Division while on duty.

2.2.1. Members can submit a written request to use a personal holster to the Chief of Police through channels. If a waiver is granted, the requesting member is responsible for the purchase, repair, maintenance, and replacement of the non-issued holster. The member's RU Manager shall notify the Training Division of the waiver.

2.3. Primary Firearm.

2.3.1. Issuance.

2.3.1.1. Primary duty firearms (Glock firearms) shall be issued to all newly-appointed sworn members.

2.3.1.1.1. Members may request an authorization letter from the Training Division to purchase a firearm for duty use from an outside vendor. The letter shall comply with all state and federal requirements.

2.3.1.2. Sworn peace officers who serve as Portland Fire Bureau Arson Investigators may be issued a primary duty firearm upon request. All Bureau weapons qualifications requirements must be satisfied prior to issuance.

2.3.2. Modifications.

2.3.2.1. Only certified armorers and certified firearms instructors shall modify or perform repairs on Glocks carried on duty.

2.3.2.2. All on-duty firearms shall have the Glock-recognized standard trigger pull weight of 5.5 pounds. PPB prohibits modification of trigger pull, weight above or below this standard.

2.3.2.3. Non-factory sights, such as high visibility or night-sights, are authorized at the member's expense and must be installed by a certified instructor or certified armorer. The member shall qualify with the non-factory sights prior to carrying the firearm on duty. Lasers and red dot sights (e.g., GLOCK MOS) are not authorized.

2.3.2.4. Slip-on or adhesive-type grips that are of a non-permanent nature are authorized at the member's expense.

2.3.2.5. Members may have the following Glock factory parts installed by a certified firearms instructor or certified armorer: extended slide stop lever, extended magazine release, and a +2 magazine floor plate.

2.3.2.6. The slide, frame, or internal parts of the firearm shall not be modified in any way, except in the course of repair by a certified firearms instructor or certified armorer.

2.3.2.7. Only Glock factory parts shall be used in the firearm, except as outlined in 2.3.2.3.

2.4. Secondary Firearm.

2.4.1. Within the parameters of this policy, members may choose to carry one secondary firearm, but are not required to do so.

2.4.1.1. A member may request to carry more than one secondary firearm. All requests to carry additional secondary firearms must be ~~submitted in writing to the Chief of Police~~authorized by the Training Division Captain.

2.4.2. ~~Any~~Prior to carrying a secondary ~~firearms are subject to approval of the Chief or their authorized designee before any member of this Bureau may use or possess such~~ firearm ~~while on duty. It shall be the responsibility of the member~~, members are required to

~~submit the~~ receive approval to carry the secondary firearm ~~to the certified firearms instructor designated by~~from the Training Division ~~for inspection prior to being carried. Thereafter, the~~ Captain and they must qualify with the secondary firearm.

2.4.2.1. At the time of the initial qualification, the certified instructor (CI) or designee shall document the serial number of the secondary firearm and qualification type in the Bureau's Learning Management System (LMS).

~~2.4.1.2.~~2.4.2.2. The CI or designee shall ~~be subject to periodic inspection by the Training Division.~~verify the serial number of the secondary firearm on an ongoing basis at the time of each subsequent qualification.

2.4.3. Members shall notify their command-level supervisors upon qualification or disqualification of any secondary firearm they usually carry. Upon reassignment, members shall notify their command-level supervisor of the secondary firearm they usually carry.

~~2.4.2.~~2.4.4. No firearm ~~will~~shall be carried on duty that has not been inspected by a Training Division CI or certified ~~firearms instructor or qualified~~ armorer (CA) for that class of firearm~~, of the Training Division pursuant to~~. Members must also qualify on the firearm in accordance with Directive 1021.00, Weapons Qualifications, prior to carrying it on duty.

~~2.4.3.~~2.4.5. The firearm must be a double action revolver or a semi-automatic pistol. Additionally, the revolver or pistol must have a minimum capacity of at least five rounds. The revolver or pistol shall be a .38 caliber, .380 acp caliber, or 9mm parabellum.

~~2.4.4.~~2.4.6. Secondary firearms shall be carried in a holster and in a concealed manner.

~~2.4.5.~~2.4.7. No modification shall be made to any secondary firearm unless approved and inspected by a certified instructor.

~~2.4.6.~~2.4.8. The approved secondary firearm should be used only when the primary sidearm is not available or is inoperable.

3. Shotgun.

3.1. Only shotgun qualified members shall carry a Bureau-issued shotgun, except under exigent circumstances.

3.2. While on duty, members shall only use Bureau-issued shotguns.

3.3. When not in use, the shotgun shall be stored in a Bureau-approved armory in the following conditions: action open, safety on, and verified to have an empty chamber and unloaded magazine tube.

3.4. When checking out a shotgun from the armory or secure storage area, members shall conduct a function check to ensure the shotgun is working properly.

3.5. At the beginning of their shifts, members shall load the magazine tube of the shotgun with only 00 buckshot ammunition or only rifled slug ammunition. Members shall not have a combination of these two rounds loaded in the magazine tube. Members shall load the side saddle with spare rounds of the type not loaded in the magazine tube. If tactically feasible,

members should utilize the most appropriate type of ammunition based on the totality of the circumstances.

3.6. At the beginning and end of shift, the shotgun shall be loaded and unloaded in the designated safe areas within each precinct or division as prescribed by the Training Division.

3.7. A Shotgun Issue Log (Precinct/Division Equipment) shall be maintained by the precinct to record the daily issue and check-in of shotguns. The log shall be reviewed during each shift by a supervisor.

3.8. Non-uniformed sworn members may check out shotguns from a precinct with the permission of a precinct supervisor.

4. AR-15.

4.1. Only AR-15 qualified members shall carry Bureau-issued and personally assigned AR-15s, except under exigent circumstances.

4.2. While on duty, members shall only use Bureau-issued AR-15s.

4.3. When checking out their issued AR-15 from the armory or secure storage area, members shall conduct a function check to ensure the AR-15 is working properly, to include checking the attached light and sighting system.

4.4. The AR-15 shall be loaded into the carry condition and unloaded in the designated safe areas within each precinct or division as prescribed by the Training Division.

4.5. When not in the carry condition, all AR-15s shall be unloaded with a yellow safety block inserted into the magazine well, the action locked open, and with the selector in the safe position.

4.6. An AR-15 may be transported to a sworn member's residence the night before and night after an approved training session, with approval from the RU Manager. The AR-15 must be transported directly to and from the residence, the training site, and RU. The AR-15 shall not, under any circumstances, be left unattended in a personal vehicle. While in transit, members shall adhere to the vehicle storage procedures outlined in this directive. Members shall store the AR-15 in a lockable rifle case or a lockable gun safe while at the residence.

5. Less Lethal Weapons.

5.1. Conducted Electrical Weapon ~~(CEW)~~..

5.1.1. Only trained and certified members are authorized to carry a CEW. Members shall refer to 1021.00, Weapons Qualifications, for additional guidance on certification requirements.

5.1.2. Certified members shall only carry Bureau-issued CEWs and cartridges.

5.1.3. All members of the rank of officer and sergeant in a uniform assignment shall carry a CEW, unless waived by the overseeing Assistant Chief. All members at the rank of

Lieutenant and above may carry a CEW, if preferred. For all other units, the carrying of a CEW remains at the discretion of the RU Manager.

5.1.4. CEWs shall be carried in a position on the member's body such that it can be drawn with the support-hand of the member.

5.1.5. Members carrying the CEW are responsible for checking operability at the start of each shift. Members shall also perform, at a minimum, weekly spark tests to ensure weapon functionality.

~~5.1.4.~~5.1.6. Members shall exercise due care in securing and storing their CEW while off duty to prevent unauthorized access.

5.2. Aerosol Restraints.

5.2.1. Members shall be trained in the use of aerosol restraints prior to issuance.

5.2.2. All members in a uniform assignment shall carry Bureau-issued aerosol restraints in a manner such that the tool is immediately available for use, if necessary.

5.3. 40 mm Less Lethal Launchers and Munitions.

5.3.1. Only members trained on and certified in Bureau-issued less lethal launchers and impact munitions are authorized to carry and use those tools in their designated capacity.

5.3.2. While on duty, members shall only use Bureau-issued less lethal launchers and impact munitions.

~~5.3.2.1.~~1.1.1.1. ~~Members who are certified to carry the less lethal launcher and non-patrol specialty munitions may carry those munitions on patrol when authorized by the RU Manager.~~

5.3.3. Sworn members at the rank of officer and who are certified less lethal ~~shotgun~~launcher operators in uniform assignments shall carry a less lethal ~~shotgun~~launcher in their patrol vehicle when their primary duty is call response.

5.3.3.1. Sworn members at the rank of sergeant and above who are certified less lethal ~~shotgun~~launcher operators in uniform assignments may carry a less lethal ~~shotgun~~launcher.

5.3.4. Members shall conduct a function check to ensure the less lethal launcher is working properly, including the optic and sling prior to each shift. In addition, members shall inspect each of the impact munitions loaded in the buttstock and leg pouches.

~~5.3.4.~~5.3.5. Less lethal launchers shall only be loaded with Bureau-issued impact munitions ~~stored on the launcher at designated~~in a safe ~~areas.~~manner consistent with their training (i.e., not loaded until needed). Certified members are required to visually and physically inspect each ~~specialty round~~impact munition during loading, if feasible.

5.3.6. When not deployed, the launcher shall be secured in a vehicle with an empty chamber.

5.3.7. The launcher shall have two impact munitions carried on the butt stock, and the member operator shall have a Training-approved carrier loaded with at least five additional rounds of 40 mm impact munitions at the beginning of their shift.

5.3.8. Additional 40 mm impact munitions shall only be stored in a Training-approved carrier.

5.3.9. Members who no longer wish to carry a less lethal launcher can request de-certification by routing a memorandum through channels to the Training Manager.

~~5.3.4.1.~~ All less lethal launchers and ammunition shall be removed from vehicles and stored in their respective Responsibility Unit's armory when not in use or at the end of shift.

~~Members of the Special Emergency Response Team (SERT) and the Rapid Response Team (RRT) may be required to load less lethal munitions in unique circumstances outside of the designated safe areas; therefore, the provisions of this section do not apply to these assignments.~~

5.3.10. If the operator has an issued leg pouch for ammunition, it shall be stored in a locker.

~~5.3.5.~~5.3.11. Specialty Munitions.

~~5.3.5.1.~~5.3.11.1. Only trained and certified members are authorized to carry specialty munitions. Members shall refer to 1021.00, Weapons Qualifications, for additional guidance on certification requirements.

~~5.3.5.2.~~5.3.11.2. Certified members shall only carry Bureau-issued specialty munitions.

5.3.11.3. Members who are certified to carry the less lethal launcher and non-patrol specialty munitions may carry those munitions on patrol when authorized by the RU Manager.

~~5.3.5.3.~~5.3.11.4. All certified members of the rank of officers and sergeants shall carry specialty munitions when authorized to do so in the performance of their duties as required by that specialty unit and/or at the discretion of the incident commander.

~~5.3.5.4.~~5.3.11.5. Specialty munitions shall be stored in a safe and secure manner in the less lethal weapon's supplied carrier, if available.

~~5.3.6.~~5.3.12. While on duty, members are responsible for securing the less lethal launcher during transport in patrol vehicles.

~~5.3.7. Additional Guidelines for the 12-Gauge Less Lethal Launcher.~~

~~5.3.7.1. Members are prohibited from carrying any standard 12-gauge lethal munitions while also carrying a 12-gauge less lethal weapon.~~

~~5.3.7.2. 12-gauge launchers shall only be loaded with Bureau-issued specialty munitions, which are stored on the launcher.~~

~~5.3.7.3. Members, other than those at the rank of sergeant and above, are not authorized to possess any additional 12-gauge specialty munitions beyond those stored on the less lethal launcher Bureau-issued side saddle carrier and/or butt stock carrier.~~

~~5.3.7.4. When not deployed, the 12-gauge less lethal launcher shall be secured in a vehicle after ensuring the action is closed on an empty chamber and the safety is on.~~

~~5.3.8. Additional Guidelines for the 40 mm Less Lethal Launcher.~~

~~5.3.8.1. When not deployed, the 40 mm launcher shall be secured in a vehicle with an empty chamber.~~

~~5.3.8.2. The launcher shall have two specialty munitions carried on the butt stock, and the member operator shall have a Training-approved carrier loaded with at least five additional rounds of 40 mm specialty munitions at the beginning of their shift.~~

~~5.3.8.3. Additional 40 mm specialty munitions shall only be stored in a Training-approved carrier.~~

~~5.3.9. Members who no longer wish to carry a less lethal weapon can request de-certification by routing a memorandum through channels to the Training Manager.~~

~~5.3.10. All less lethal launchers and ammunition shall be removed from vehicles and stored in their respective Responsibility Unit's armory when not in use or at the end of shift.~~

5.4. Less Lethal Impact Weapons (Batons).

5.4.1. Members shall receive training on the PR-24 side-handled baton and the asp (straight expandable baton). These are the only batons that are authorized for general member use.

5.4.1.1. Specialty units (e.g., ~~Mounted Patrol Unit [MPU] and~~ RRT) shall receive training on long baton use.

5.4.2. The PR-24 side-handled baton is issued to every sworn member, but shall only be used in specific tactical situations (e.g., riot or crowd control) as directed by an incident commander.

5.4.3. The asp baton is issued ~~as standard equipment~~ to ~~all~~every sworn ~~members. All sworn members in a uniform assignment of the rank of officer and sergeant (other than MPU) shall~~ member. Members who choose to carry the asp baton shall do so in a manner such that the tool is immediately available to use, if necessary.

6. Specialized Weapons.

6.1. The Chief may authorize, in writing, specialized ~~firearms~~weapons and ammunition for use by designated units (e.g., SERT) that are not authorized for all members. Only members assigned to these designated units, while in that assignment, may use the special firearms authorized for that unit.

6.2. If a member leaves a specialized unit, it is that member's responsibility to return all specialized equipment and weapons within five working days to the unit that issued the equipment. The supervisor must affirmatively acknowledge that all weapons and equipment are returned by the departing member. This may be done by Bureau email copied to their respective RU Manager.

7. Ammunition.

7.1. Members shall only use Bureau-issued and authorized ammunition while on duty.

7.2. All magazines for the primary firearm shall be loaded to capacity.

7.2.1. Members are required to carry at least two magazines in addition to the magazine in their primary firearm while in uniform.

7.2.2. Members are required to carry at least one magazine in addition to the magazine in their primary firearm while in a plain-clothes assignment, unless exempted by their RU Manager.

7.3. Members shall be issued new duty ammunition at least annually.

7.4. The Training Division shall determine which ammunition is authorized, subject to the approval of the Chief of Police.

8. Training.

8.1. The Training Division shall approve training and certification courses for every Bureau-issued or approved weapon. Members shall refer to 1021.00, Weapons Qualifications, for additional guidelines.

9. Weapons Cleaning and Maintenance.

9.1. After discharging a weapon on duty for qualifications, training, practice, or in the official course of duty, members shall clean their ~~weapons~~weapon(s) in a manner consistent with Bureau standards prior to returning to duty unless exigent circumstances exist. Supervisors shall ensure that members are provided an adequate opportunity to thoroughly clean their weapons(s) in a manner that is consistent with Training Division prescribed standards.

9.1.1. However, in accordance with Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, involved member(s) shall surrender the weapon used in a deadly force incident to Detectives or criminalists.

9.2. When weapons become contaminated, fouled, thoroughly wet, or dirty while on duty, members shall clean the weapon as soon as possible, or prior to the end of the shift. The Training Division shall provide gun-cleaning equipment at the Justice Center and Training Complex ranges. Precinct Commanders shall provide gun-cleaning equipment at the precinct.

9.3. Firearms that are the property of the Bureau shall only be repaired ~~only~~ by a ~~certified armorer in~~CA for the ~~repair of that specific type of firearm~~respective weapon system, or a qualified contractor retained by the ~~Bureau~~Training Division.

9.4. Any firearm authorized by the Bureau to be carried on ~~duty or off~~-duty and found to be malfunctioning or needing service shall not be carried and shall be promptly presented to a ~~certified armorer~~CA or the Training Division for inspection. Any firearm determined to be in need of service or repair during an inspection will be immediately removed from service. If the firearm is the member's primary duty firearm, the Training Division will issue a replacement firearm ~~will be issued~~ to the member until the duty firearm is rendered serviceable.

9.5. All maintenance and repair documentation is the responsibility of the Training Division and that Division will keep on file such documentation for each firearm.

10. Responsibility, Accountability, and Control.

10.1. Members.

10.1.1. Members are responsible for maintaining individually issued weapon(s). Members shall store their weapons in a secure manner.

~~10.1.2.1.1.1. Members carrying the CEW are responsible for checking operability at the start of each shift. Members shall also perform, at a minimum, weekly spark tests to ensure weapon functionality.~~

10.2. Supervisors.

10.2.1. Supervisors are responsible for monitoring issuance procedures for weapons that are not assigned on an individual basis. Supervisors shall determine when members are required to carry additional weapons, such as the shotgun and less lethal launcher.

10.2.2. Supervisors are authorized to carry additional impact munitions. ~~All 12-gauge impact munitions will be in original factory packaging for distribution to certified members during a specific tactical incident~~Impact munitions shall be stored in an approved container authorized by the Training Division.

10.2.3. Supervisors are responsible for securing all weapons (shotguns, AR-15s, less lethal weapons) for members who have been injured or are unable to return their weapon(s) to the armory.

10.3. RU Managers.

10.3.1. RU Managers are responsible for the security, inventory, storage, issuance, cleaning, maintenance, and auditing of weapons assigned to their RU. Weapons include shotguns, AR-15s, and less lethal weapons (CEWs, launchers).

10.3.1.1. RU Managers shall ensure that armories established at their units meet the minimum following requirements:

10.3.1.1.1. Maintained in accordance with Directive 60.60, Standard Operating Procedures (SOPs). SOPs will address storage protocols of weapons, the maintenance of a sign-in/sign-out log, and requirements of members prior to signing weapons in or out;

10.3.1.1.2. Managed by a certified armorer responsible for inventorying and servicing weapons;

10.3.1.1.3. Restricted entry to authorized members only;

10.3.1.1.4. Prohibit the storage of loaded weapons; and

10.3.1.1.5. Ensure weapons are locked when not in use.

10.3.2. Any firearm, less lethal launcher or CEW in need of reassignment shall be transferred to the Training Division and entered into the Police Bureau's inventory.

10.3.3. RU Managers are responsible for ensuring that shotguns and less lethal launchers within their RU or assigned to members within their RU are inspected, at a minimum, annually.

10.3.3.1. RU Managers shall ensure shotgun and less lethal launcher inspections include, but are not limited to, an examination of the cleanliness and proper lubrication of the weapon, a review for damage or unauthorized modifications, verification of the weapon's serial number, test firing, and assessment of the weapon's sighting.

10.3.3.2. The Tactical Operations Division (TOD) Manager, or designee, is responsible for ensuring that specialty weapons within SERT are inspected, at a minimum, annually.

10.3.3.3. The RRT Manager, or designee, is responsible for ensuring that specialty weapons within the unit are inspected, at a minimum, annually.

10.3.4. RU Managers shall have the discretion to issue and assign less lethal weapons to any certified members in the RU.

10.3.5. RU Managers shall ensure that less lethal launchers are assigned in a manner that optimizes their continuous availability throughout their precinct for emergency deployments.

10.3.6. RU Managers shall ensure that their assigned members are provided with the opportunity to comply with the weapons cleaning and maintenance section of this directive.

10.3.7. RU Managers shall ensure that the provisions of this directive are followed within their RU. Members shall refer to Directive 1200.00, Inspections, Maintenance, Responsibility, and Authority for additional guidance.

10.4. Training Division.

10.4.1. The Training Division Manager is responsible for procuring and controlling the Bureau's inventory of all weapons, including allocations, inspections, and maintenance.

10.4.2. The Training Division shall procure, inventory, track and issue CEWs and cartridges, and less lethal launchers and munitions to other units.

10.4.3. The Training Division Manager shall approve all modifications to primary firearms, shotguns, AR-15s, and less lethal launchers. Members shall not make any modifications without written authorization from the Training Division Manager unless otherwise allowed within this directive.

10.4.4. ~~The Training Division Manager shall evaluate completed less lethal munitions database reports.~~ When a weapon no longer meets Bureau requirements or serves Bureau purposes, the Training Division will dispose of the weapon in accordance with Directive 660.10, Property and Evidence Procedure.

11. Member Process to Purchase Bureau-Issued Firearms.

11.1. All firearm sales shall comply with applicable federal and state regulations.

11.2. Sworn members (who have completed background checks) may acquire certain Bureau-approved weapons from the Training Division. A retiring member with a City-issued primary firearm may purchase that firearm at the original price paid by the City, plus any applicable Federal Excise Tax (FET).

11.3. Any sworn member~~, reserve officer,~~ or arson investigator who requests to purchase a firearm upon leaving the Bureau must receive approval from PSD to check for open Internal Affairs (IA) cases. If there are no open IA cases, and PSD agrees to approve the purchase, PSD will sign off on the separation checklist allowing the member to purchase their firearm. If the member has open cases, the cases shall be reviewed on an individual basis to determine eligibility to purchase a firearm.

12. Off duty firearms.

12.1. The carrying and using of firearms by members while off duty based on their authority as law enforcement officers is permitted by the Chief of Police. The Chief of Police may rescind the privilege should circumstances dictate (e.g., administrative leave, disciplinary action).

12.2. Members shall carry their Bureau identification at all times when armed and in public, whether on duty or off duty.

13. Forfeit and replacement of firearms.

13.1. When a member's primary firearm is confiscated ~~for investigative purposes~~as evidence following an application of deadly force, the member shall be provided a Bureau-owned firearm that is the same make, model, and caliber for temporary use.

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Q1 Please provide feedback for this directive

COMMENTS ON FORCE, REPORTING, WEAPONS AND VEHICLE RELATED DIRECTIVES, MARCH 2018

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are our comments on the Directives posted for review on March 1 . We discovered them on the PPB website on March 9 and asked the Bureau whether a formal email had gone out to the community asking for input. The information was finally sent out on March 23. While the Bureau has signalled its intention (in Directive 010.00) to change the review timelines so there are 15 days for first reviews and 30 days for second reviews, PCW continues to think there should be longer timelines, especially for complex policies such as Use of Force (1010.00).

Of the seven policies up for review, we previously commented on five in July 2017, one (630.60-Vehicle Disposition) in October 2014, and one (630.05-Vehicle Interventions and Pursuits) in August 2015. With the exception of 630.05, most of these comments are repeats of ones we made previously that the Bureau has chosen to reject or ignore. As noted last year, our primary concern with 1010.00 is that it defines de-escalation both as lowering tension at a scene and using less force on a suspect. We also noted that the key promise made by the presence of the US Department of Justice around deadly force incidents-- that they should not be treated differently from other uses of force-- seems to have gone out the window. This was codified by the changes made to 1010.10 through City Council, wherein offices involved in the death of a civilian are not being required to write force reports until after a criminal investigation has ended, and if their gunfire did not result in death the Bureau is leaving such reporting up to the discretion of supervisors. As we noted last year, this is no way to build trust in the community or hold officers accountable.

We point you once again to comments we made on 1010.00 Force (and 1051.00 Taser Use) in October, 2012: .

We continue to urge the Bureau to number all of the sections of the Directives, such as the Definitions, Policy and Procedure sections (our comments here refer to the Procedure section unless otherwise noted). Interestingly, 630.60 includes just such a numbering scheme even though there are no definitions in Section 2; this shows that the Bureau was numbering the Definitions in 2014 but stopped without explanation.

DIRECTIVE 1020.00 FIREARMS ADMINISTRATION

While there are various items in Directive 1020.00 which implicitly or explicitly are included for safety reasons, the Bureau seems to consistently ignore rule #1 of gun safety: Never point a weapon at anyone unless you're prepared to shoot them. As with the previous draft, Policy Section 2 is therefore disingenuous when it states that "safety is paramount and the PPB shall hold its members to the strictest of standards regarding weapon safety." To put this in context, officers pointed their firearms at people 430 times in 2017,*-3 or more than one time every single day. Were there really 430 times that there was a substantial risk of injury or death to officers or community members? Section 1.3 says "Members shall not unnecessarily brandish any firearm." (We still find it disconcerting that the caveat in Section 1.2 says members should not carry a firearm "if they impaired by intoxicants to a noticeable or perceptible degree.")

Regarding exceptions to officers carrying firearms, Supervisors are only given the ability to waive firearm requirements "based on investigative needs" (Section 2.1.4). It should also be able to be based on the rules of a psychiatric/medical facility, and/or if the officer is attending a community meeting where the firearm might be seen as threatening.

It's of concern that Section 9.1 calls on officers to clean their weapons after discharging them in the official course of duty. It seems that should not happen until after a forensics team has examined it for the criminal and administrative investigations.

The section on Tasers has a wise provision for officers to carry the electroshock weapons on their "support-hand" side (5.1.4), but perhaps it should more specifically say on the opposite side from a firearm.

Significantly, Section 10.1 from the previous version of 1020.00, which required officers to document firearm use in an appropriate police report before going off shift, is no longer in this policy (also see our general comments on 1010.00, and previous comments on 1010.10).

We note here that Section 5.4 still refers to the Mounted Patrol Unit which, thankfully for the horses and for our fellow Portlanders who've been terrorized by them, has been disbanded.

Footnote (1020)

*3- up from 359 in 2016

CONCLUSION

As we have stated before, Portland Copwatch appreciates the Bureau reaching out to the community for comment, but are looking forward to more of an open dialogue when the Portland Committee on Community Engaged Policing gets underway (if ever). We continue to urge the Bureau to be open to revising its timelines for review to ensure meaningful public input can take place. One of the only reasons we were able to tackle these rather long Directives is that we had made comments on them earlier. Our commentary would be much shorter if we could just be thanking the Bureau for adopting our advice, but such changes are few and far between.

Portland Copwatch

Q2 Contact Information (optional)

Name

Email Address

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COMPLETE

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Q1 Please provide feedback for this directive

COMMENTS ON FORCE, REPORTING, WEAPONS AND VEHICLE INTERVENTION DIRECTIVES, DECEMBER 2018

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are our comments on the Directives posted for review on December 1 and December 14 . As we noted in an email to the PPB, the comment the Bureau attached to Directive 1010.10 on Dead ly Force investigations states that the Bureau received no feedback on that policy in March, but 1010.10 was not posted for review in March. (The Bureau replied that the Directive was actually posted in April, but no public notification went out.)

All the other Directives posted on December 1 are ones we did comment on at that time, whereas the "odd Directive out" number 313.70 on Associations was previously posted in draft form for comment in June 2016, but apparently was never changed.

We continue to be concerned that Directive 1010.00 on Use of Force defines de-escalation both as lowering tension at a scene and using less force on a suspect. We repeat here our opposition to changes made in 2017 to these policies: they delay the requirement for officers involved in the death of a civilian to write force reports until after a criminal investigation has ended, and if their gunfire did not result in death, they leave such reporting up to the discretion of supervisors.

Going through the revised Force policy, we note that very few suggestions from Portland Copwatch were incorporated, while many suggestions from the ACLU were adopted in one way or another. It is really too bad that the Bureau discusses these changes behind closed doors as a public meeting with various stakeholders could lead to better policy making which doesn't require repeated fixing. We point the Bureau to the COCL's reports where they respond to various recommendations one by one explaining whether and why they include various suggestions into their final reports. While there is a place for the anonymous listings in the Bureau's publication of incoming comments, groups which wish to be identified (including ACLU and Portland Copwatch), and City-run advisory bodies (such as the Training Advisory Council, Citizen Review Committee, Community Oversight Advisory Board and, if they ever start looking at policies, the Portland Committee on Community Engaged Policing/PCCEP) should know what became of their suggestions.

An overall note we included as a footnote last time, but which requires serious attention: The Bureau should stop using the word "tool" to refer to weapons, as is done repeatedly in Directive 1010.00, and in Directive 1020.00 (proposed Section 5.4.3). These items are all designed to kill, harm, wound, or physically coerce people to follow police orders, not items used to hang kitchen doors or repair automobiles.

PCW acknowledges that the PPB is changing all language about previous shotgun-loaded "less lethal" munitions to reflect the new 40 MM launcher system in Directives 1010.00 and 1020.00.

We continue to urge the Bureau to give different labels to all of the sections of the Directives, such as the Definitions, Policy and Procedure sections (our comments here refer to the Procedure section unless otherwise noted) so there are not multiple sections

numbered "1." There is currently only one section in 313.70 but as the Bureau adds its new numbering scheme, if other sections are added we hope these changes will be considered.

DIRECTIVE 1020.00 FIREARMS ADMINISTRATION

Directive 1020.00 still seems to ignore gun safety rule #1: Never point a weapon at anyone unless you're prepared to shoot them. PCW says this means Policy Section 2 is disingenuous in stating "safety is paramount and the PPB shall hold its members to the strictest of standards regarding weapon safety." Section 1.3 says "Members shall not unnecessarily brandish any firearm," but officers pointed their firearms at people 430 times in 2017 and 196 times in the first three quarters of 2018, We ask, were there really 626 times that there a substantial risk of injury or death to officers or community members would justify the use of deadly force?

It is not clear why a number of changes are being proposed.

--There is a proposal to add a new Section 2.3.2.1.1 which says officers should not modify their weapons or have them repaired by vendors not approved by the Bureau, when the preceding Section 2.3.2.1 says that only certified armorers and firearms instructors can modify or repair officers' guns.

--Another proposal says the Chief would not have to approve of a secondary firearm being carried simply because it is of the same make and model as other Bureau weapons (Section 2.4.2). On that note, we agree that the Chief (or Chief's office) should be consulted on such matters, while Section 2.4.1.1 as amended would allow the Training Division, which is overseen by a Captain, to make decisions about secondary weapons.

--The existing Section 4.3, which requires officers checking out AR-15 assault type rifles to be sure they are functioning properly, is being cut.

--The existing Section 5.3.5.1 which allowed Special Emergency Response Team (SERT) officers to load less lethal weapons in special circumstances, is being cut; PCW is not opposed to applying the same rules to all officers, it is just unclear why this change is being made.

Also, previous issues which were not fixed include:

--We would still like to see a change in Section 1.2 which says members should not carry a firearm "if they are impaired by intoxicants to a noticeable or perceptible degree."

--Regarding exceptions to officers carrying firearms, Supervisors should be allowed to waive the requirement for officers to carry firearms based on the rules of a psychiatric/medical or faith-based facility, and/or if the officer is attending a community meeting where the firearm might be seen as threatening. Section 2.1.4 only allows waivers
"based on investigative needs" (Section 2.1.4).

--Section 9.1 should prohibit officers from cleaning their weapons after discharging them in the official course of duty until after a forensics team has examined it for the criminal and administrative investigations. Directive 1010.10 (5.4) explicitly says the Supervisor will take custody of the firearm at the scene of a shooting.

--Section 5.1.4 on Tasers should be explicit that officers should carry the electroshock weapons on the opposite side from a firearm, where it now says to use their "support-hand" side.

--The requirement for officers to document firearm use in appropriate reports should be included in this policy.

One final note: The references to the Mounted Patrol Unit have been removed per PCW's previous comments.

CONCLUSION

Portland Copwatch would still like to see more of an open dialogue around the Directives, perhaps under the auspices of the PCCEP. We also note that while these comments are easier for PCW to make since we've looked at all of these Directives in previous forms, the timelines are still restrictive for many people, including groups who only meet once a month.

Portland Copwatch

Q2 Contact Information (optional)

Name

Email Address

1021.00, Weapons Qualifications

Refer:

- DIR 1010.00, Use of Force
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1020.00, Weapons Administration

Definitions:

- Aerosol Restraints: A hand-held aerosol spray containing organic capsaicin oils derived from pepper plants, which affects individuals for several minutes, designed to impair vision and breathing. Most effects dissipate within 30-40 minutes.

- Ammunition: Projectiles, along with their fuses and primers, which can be fired from a firearm.

- AR-15: a Bureau-approved and issued carbine rifle.

- Baton: An authorized instrument designed for blocking, jabbing, striking, or to apply control holds while engaged in a police action. Also known as an impact weapon not intended or likely to cause death of a subject.

- Certified Armorer (CA): A sworn member who has successfully completed armorer training in a weapons system currently used by Bureau personnel, and is designated as an approved armorer by the Training Division.

- Certified Instructor (CI): A sworn member who has successfully completed a Bureau or, when the Bureau does not have a certification process, an accredited instructor school in a weapons system and is currently designated as a weapons system instructor by the Training Division. Certified instructors may qualify members in any weapon system during a qualification range period; however, only certified instructors of a specific weapon system are authorized to instruct members who are conditionally qualified in that specific weapon system.

- Cold qualification: A successful attempt at shooting a passing score on the designated Bureau-approved qualification courses as prescribed by the Training Division without prior attempts or practice shots within the preceding twelve hours with that specific firearm.

- Conditionally qualified: A member is conditionally qualified when, after failing on the first attempt to fire their primary or secondary firearm, they achieve a passing score on the second attempt. There is no conditionally qualified provision for the shotgun and AR-15.

- Conducted Electrical Weapon (CEW): A weapon, including Tasers, designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses.

- Day: Calendar day

- Firearm: A weapon, by whatever name known, which is designed to expel a projectile by the action of powder.

- Firearms training: Instruction received from a Bureau CI for the purpose of skill enhancement. This may also include instructors from outside organizations who contract with the Bureau to provide approved firearms training. The Training Division shall be responsible for the approval of non-Bureau instructors.

- Function check: The ability of a member to describe and demonstrate the function and safety features on an AR-15, shotgun, and less lethal launcher.

- Impact Munitions: Bureau-issued munitions that are deployed by less lethal certified officers and are fired from a launcher. Impact munitions are not intended to produce deadly effects, but just as with other impact weapons, they can cause serious injury or death. Although this munition is designed to be less lethal, it is not to be considered non-lethal.

- Less Lethal Launcher: A Bureau-issued weapon system capable of delivering 40mm munitions. Bureau-issued launchers designated as less lethal launchers will be conspicuously marked.

- Primary firearm: A Bureau-approved firearm (Glock 17, 19, 26) carried on duty.

- Remedial Training: Mandatory instruction determined through consultation with the Training Division and provided by a CI to a member that has failed to cold qualify on a primary firearm, AR-15, shotgun, or less lethal launcher.

- Secondary firearm: A Bureau-approved firearm other than the primary firearm that is carried in a concealed manner as a backup firearm.

- Shotgun: a Bureau-approved, 12-gauge, pump-action shotgun.

- Specialty Munitions: Bureau-issued munitions that are used by specialty units and are not intended to produce deadly effects, but just as with other impact weapons, they can cause serious injury or death. Although this munition is designed to be less lethal, it is not to be considered non-lethal.

Policy:

1. The Portland Police Bureau requires its sworn members to be properly trained on and proficient in the use of authorized weapons. This policy establishes the qualification and certification procedures for Bureau-authorized weapons. The authorization to carry and use any Bureau-approved weapon and munition is contingent upon a member's ability to qualify on a designated qualification course approved or developed by the Training Division.

2. The Bureau recognizes the inherent risks in operating weapons and expects its sworn members to exercise due caution at all times while handling, transporting, and using weapons and munitions. Safety is paramount, and the Bureau shall hold all members to the strictest of standards regarding weapon safety.

3. The Bureau authorizes the Training Division to approve specialty unit qualification standard operating procedures (SOPs) or provide weapons training and instruction to its sworn members to enhance their skills. Members who have completed the Bureau's Instructors School are authorized to conduct training and/or certification courses within their designated field, although the Training Division may seek outside instructors as needed.

4. Directive 1010.00, Use of Force, governs the use of all weapons in a member's performance of duty.

Procedure:

1. Qualification:
   - 1.1. Members shall qualify during tri-annual qualification range periods for patrol-used/Operations-based primary, secondary and less lethal weapons, except the asp baton, CEW and aerosol restraints.

   - 1.2. Sworn Member Responsibilities.
     - 1.2.1. Primary Firearms.
       - 1.2.1.1. Members are required to qualify at a Training Division-approved firearms qualification range. These members shall have their firearm(s) inspected by a certified instructor (CI) or certified armorer prior to firing each weapon for qualification, and prior to being authorized to carry each firearm.
       - 1.2.1.2. Members must fire a passing score on the designated primary firearms qualification course as prescribed by the Training Division.
       - 1.2.1.3. Members that fail to cold qualify must immediately attempt to conditionally qualify on the same course. This condition requires the member to receive remedial training. The member must successfully complete a cold qualification within twenty-one days after firing the conditionally qualified score. All members must be qualified by the end of the qualification period, regardless of when they conditionally qualified.
         - 1.2.1.3.1. If a member fails to shoot a passing score on their attempt to conditionally qualify, they are considered non-qualified and must notify their immediate supervisor before leaving the range. Members shall be immediately re-assigned to administrative duties where contact with the public is unlikely. Remedial firearms training, as determined through consultation with the Training Division, shall be arranged by the member's supervisor.
         - 1.2.1.3.2. During the non-qualified member's remedial firearms training, the member shall have an opportunity to fire a qualification course for score (record). Members who fire a passing score shall be conditionally qualified and shall be required to cold qualify. All

members must be qualified by the end of the qualification period regardless of when they conditionally qualified.

1.2.1.4. If a member's qualifications lapse while they are on an absence from duty, they must immediately re-qualify upon return to duty.

1.2.1.5. During tri-annual qualification ranges, Special Emergency Reaction Team (SERT) members may qualify with their primary firearms during SERT training days and forward their qualification documentation to the Training Division.

1.2.2. Secondary Firearm.

1.2.2.1. Members who carry a secondary firearm must fire a passing score on the designated firearms qualification course as prescribed by the Training Division.

1.2.2.2. Members who fail to conditionally qualify on their second attempt will not be authorized to carry that weapon as a secondary firearm until they successfully complete a cold qualification.

1.2.2.3. Any member who fails to cold qualify on their first attempt with a secondary firearm is required to receive remedial training and re-qualify cold.

1.2.3. AR-15.

1.2.3.1. Members who have successfully completed AR-15 training and are certified by the Training Division shall be issued a Bureau-owned AR-15. All certified AR-15 operators shall qualify with their weapon during all qualification periods.

1.2.3.2. Prior to carrying an AR-15, members shall conduct a function check and fire a passing score on the designated AR-15 qualification course, as prescribed by the Training Division.

1.2.3.3. Members who fail to pass the function check or fail to cold qualify with a passing score during the qualification period will no longer be qualified. Members are required to immediately notify their supervisor and are not authorized to carry or deploy an AR-15. Members in a non-qualified status must conduct remedial training and pass another cold qualification and function check within twenty-one days. Failure to qualify may lead to the revocation of the member's AR-15 certification by the Training Division Manager.

1.2.3.4. Any member who fails to cold qualify on their first attempt with an AR-15 is required to receive remedial training and re-qualify cold.

1.2.4. Shotgun.

1.2.4.1. All members shall fire a passing score on the designated shotgun qualification course as prescribed by the Training Division during each tri-annual qualification period.

1.2.4.2. All members must perform a function check during each qualification period. Those who do not successfully demonstrate the function check must do so within twenty-one days.

1.2.4.3. If a member fails to shoot a passing score or fails to pass the function check, they shall not carry a shotgun on duty. Members are still required to

conduct remedial training and successfully complete another cold qualification within twenty-one days.

1.2.4.4. Any member who fails to cold qualify on their first attempt with a shotgun is required to receive remedial training and re-qualify cold.

1.2.4.5. Members who have not yet attended the Department of Public Safety Standards and Training (DPSST) basic academy or the PPB Advanced Academy are exempt from the qualification and function check requirement. However, while a member is attending the Advanced Academy it is a requirement that they become proficient with the shotgun and must successfully qualify and perform the function check prior to graduation.

1.2.5. Less Lethal Launchers.

1.2.5.1. Certified members are required to re-qualify during the designated time by completing the approved course of fire. Re-qualifying members shall have their weapon inspected by a CI or certified armorer, prior to firing.

1.2.5.2. Members must pass a function check and the designated qualification course prescribed by the Training Division in order to be considered re-qualified.

1.2.5.3. Members who do not pass shall be considered non-qualified and must return on another day to attempt re-qualification. Members shall not carry their less lethal launcher on patrol until they have been re-qualified.

1.2.5.4. Members who do not re-qualify on the less lethal launcher shall not carry or deploy the weapon. Failure to do so may lead to the revocation of the member's less lethal launcher certification by the Training Division Manager.

1.2.5.5. Any member who fails to cold qualify on their first attempt with a less lethal launcher is required to receive remedial training and re-qualify cold.

1.2.5.6. For specialty unit qualification courses, assigned members shall refer to the unit's SOPs.

1.2.6. Specialty units, such as SERT and Rapid Response Team (RRT), shall conduct qualification assessments of their specialty munitions annually, at a minimum. Members shall refer to the specialty units' SOPs for additional guidance on qualification requirements.

1.2.7. Pregnancy Qualification.

1.2.7.1. Members who are pregnant, under the advice of their physician, may elect to forego qualifying for the duration of their pregnancy. Members shall qualify prior to returning to full duty.

1.2.8. Nursing Mother's Qualification.

1.2.8.1. Members who are on a nursing mother's contract shall qualify prior to returning to full duty.

1.2.8.2. Upon request, CIs shall assist the member with reducing potential lead exposures (e.g., loading/unloading, weapons maintenance, and range cleaning).

1.2.9. A member who fails to qualify on a firearm shall not be allowed to carry that firearm, either on duty or off duty, when based on their authority as a police

officer until they have fired a passing score on a qualification course as prescribed by the Training Division.

1.2.10. CEW.

1.2.10.1. In order to be qualified to carry or use a CEW while on duty or in the exercise of police powers, each member must qualify with the CEW prior to being authorized to carry the tool. Members shall qualify annually with the CEW.

1.2.11. Aerosol Restraints, and Batons.

1.2.11.1. Members shall receive initial training on aerosol restraints, and batons and must demonstrate proficiency prior to issuance of each tool. There are no ongoing qualification requirements for aerosol restraints, or batons; however, a supervisor can request remedial training if deemed necessary.

1.2.12. Specialty Munitions:

1.2.12.1. Members shall qualify annually with specialty munitions prior to being authorized to use.

1.3. Members shall refer to Directive 1020.00, Weapons Administration, for additional guidance regarding administrative information for each weapon.

2. Training Division Manager (or designee) Responsibilities.

2.1. Develop the qualification course for firearms, less lethal launchers, CEWs, and AR-15s with the exception of specialty units. The Training Division shall approve qualification and training plans outlined in specialty unit SOPs.

2.2. Arrange tri-annual qualifications by establishing times and locations for each RU. Print and distribute a Qualification Special Order no later than twenty-one days prior to the start of the qualification range.

2.3. Print and distribute a Non- Qualified report to all RU Managers fifteen days prior to the beginning of the open range (time during the last two weeks of the qualification period) and at the conclusion of the qualification/recertification range.

2.4. Maintain Bureau-wide weapons qualification standards and member training and certification records for auditing purposes.

2.5. Provide each unit/division with copies of requalification records for assigned members.

2.6. Ensure all members' qualification, certification, and refresher training records are maintained and up-to-date regarding applicable firearms and less lethal weapons.

2.7. Ensure members returning from Leave of Service (LOS) comply with firearms qualification requirements upon notification from the Personnel Division.

2.8. Ensure curriculum/courses, techniques and procedures used by the Training Division adhere to the provisions in this directive.

2.9. The Training Division and Professional Standards Division shall provide notice and submit for approval to the Chief of Police of any proposed changes to CEW certification rules or SOPs.

2.10. Qualification Instructor Responsibilities.

2.10.1. CIs shall review and follow all Special Orders regarding tri-annual qualification periods.

2.10.2. CIs are authorized to and shall conduct official qualification courses (for record) and firearms training. CIs are responsible for the completion and distribution of the appropriate Qualification Record.

2.10.3. CIs shall provide and conduct remedial training courses for the primary and secondary firearms, AR-15, and shotgun.

2.10.3.1. Upon completion of remedial training, CIs shall document the training in a memo and forward through channels to the Training Division Manager for members in the following conditions:

2.10.3.1.1. Conditionally qualified with a primary or secondary firearm

2.10.3.1.2. Non-qualified with a primary firearm

2.10.3.1.3. Non-qualified with the AR-15

2.10.3.1.4. Non-qualified with the shotgun

2.10.4. CIs shall provide and conduct training, qualification and re-qualification courses for the less lethal launcher and less lethal munitions.

2.10.5. CIs shall inspect all weapon systems prior to firing for qualification to determine if the weapon is clean, lubricated, not damaged, or altered beyond the Training Division-approved modifications.

2.10.6. CEW instructors shall provide and conduct training, certification, and re-qualification courses for use of a CEW.

2.10.7. A qualified instructor shall provide and conduct training courses for use of any baton.

2.10.8. A qualified instructor shall provide and conduct training courses for use of aerosol restraints.

3. Personnel Division Manager (or a designee) Responsibilities.

3.1. Notify the Training Division when members have returned from LOS.

3.2. May exempt members from qualifications based on their physical condition (with a physician's written excuse), current job assignment (unarmed, no contact with the public), or other exceptional circumstances. Exemptions must be given in writing with a copy forwarded to the Training Division Manager.

4. RU Managers Responsibilities.

4.1. Schedule training with the Training Division once qualification course dates have been announced.

4.2. Ensure that all members assigned to their RU qualify during the qualification period as prescribed by the Training Division.

4.3. When applicable, provide a memo to the appropriate Branch Chief for any member who fails to qualify with their primary firearm within twenty-one days of their initial cold qualification. The memo shall document all training and qualification attempts and recommend a course of action (e.g., work plan, personnel action, fitness for duty, etc.).

4.4. Provide a memorandum to the member's Branch Chief if a member fails to cold qualify with a weapon other than the primary firearm within twenty one days after the first failed attempt. The memorandum shall document all training and qualification attempts and shall recommend a course of action.

4.5. Ensure that members who are non-qualified immediately qualify prior to contact with the public. A non-qualified member can neither work in an armed capacity, nor have contact with the public.

4.6. Submit written documentation for re-certification exceptions or alternative re-certification arrangements to the Training Division. Any exception or arrangement will be evaluated on a case-by-case basis after consultation with the impacted member, their RU Manager, or designee, and the Training Division Manager, or designee.

4.7. May excuse staff and undercover officers from carrying firearms and/or extra ammunition if these items are not appropriate for the assignment. These exceptions, however, should be kept to a minimum and must be documented.

4.8. Maintain a Weapons Storage and Issuance Procedures SOP that details safekeeping and storage measures for RU assigned firearms.

History:

- Originating Directive Date: 07/21/17
- Last Revision Signed: 12/20/19
    - Effective Date: 01/19/20
- Next Review Date: 01/19/21

1021.00, Weapons Qualifications

Refer:

- -DIR 1010.00, Use of Force
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1020.00, Weapons Administration

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- Conducted Electrical Weapon (CEW): A weapon, including Tasers, designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses.

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- Less Lethal Launcher: A Bureau-issued ~~launcher~~weapon system capable of delivering ~~impact~~40mm munitions. Bureau-issued ~~shotguns~~launchers designated as less lethal launchers will be conspicuously marked.

- Primary firearm: A Bureau-approved firearm (Glock 17, 19, 26) carried on duty.

- Remedial Training: Mandatory instruction determined through consultation with the Training Division and provided by a CI to a member that has failed to cold qualify on a primary firearm, AR-15, shotgun, or less lethal ~~weapon~~launcher.

- Secondary firearm: A Bureau-approved firearm other than the primary firearm that is carried in a concealed manner as a backup firearm.

- Shotgun: a Bureau-approved, 12-gauge, pump-action shotgun.

- Specialty Munitions: Bureau-issued munitions that are used by specialty units and are not intended to produce deadly effects, but just as with other impact weapons, they can cause serious injury or death. Although this munition is designed to be less lethal, it is not to be considered non-lethal.

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     - 1.2.1. Primary Firearms.
       - 1.2.1.1. Members are required to qualify at a Training Division-approved firearms qualification range. These members shall have their firearm(s) inspected by a certified instructor (CI) or certified armorer prior to firing each weapon for qualification, and prior to being authorized to carry each firearm.
       - 1.2.1.2. Members must fire a passing score on the designated primary firearms qualification course as prescribed by the Training Division.
       - 1.2.1.3. Members that fail to cold qualify must immediately attempt to conditionally qualify on the same course. This condition requires the member to receive remedial training. The member must successfully complete a cold qualification within twenty-one days after firing the conditionally qualified score. All members must be qualified by the end of the qualification period, regardless of when they conditionally qualified.
         - 1.2.1.3.1. If a member fails to shoot a passing score on their attempt to conditionally qualify, they are considered non-qualified and must notify their immediate supervisor before leaving the range. Members shall be immediately re-assigned to administrative duties where contact with the public is unlikely. Remedial firearms training, as determined through consultation with the Training Division, shall be arranged by the member's supervisor.
         - 1.2.1.3.2. During the non-qualified member's remedial firearms training, the member shall have an opportunity to fire a qualification course for

score (record). Members who fire a passing score shall be conditionally qualified and shall be required to cold qualify. All members must be qualified by the end of the qualification period regardless of when they conditionally qualified.

1.2.1.4. If a member's qualifications lapse while they are on an absence from duty, they must immediately re-qualify upon return to duty.

1.2.1.5. During tri-annual qualification ranges, Special Emergency Reaction Team (SERT) members may qualify with their primary firearms during SERT training days and forward their qualification documentation to the Training Division.

1.2.2. Secondary Firearm.

1.2.2.1. Members who carry a secondary firearm must ~~qualify and pass under the Training Division's prescribed firearm~~fire a passing score on the designated firearms qualification course ~~during each tri-annual qualification period~~as prescribed by the Training Division.

1.2.2.2. Members who fail to conditionally qualify on their second attempt will not be authorized to carry that weapon as a secondary firearm until they successfully complete a cold qualification.

1.2.2.3. Any member who fails to cold qualify on their first attempt with a secondary firearm is required to receive remedial training and re-qualify cold.

1.2.3. AR-15.

1.2.3.1. Members who have successfully completed AR-15 training and are certified by the Training Division shall be issued a Bureau-owned AR-15. All certified AR-15 operators shall qualify with their weapon during all qualification periods.

1.2.3.2. Prior to carrying an AR-15, members shall conduct a function check and fire a passing score on the designated AR-15 qualification course, as prescribed by the Training Division.

1.2.3.3. Members who fail to pass the function check or fail to cold qualify with a passing score during the qualification period will no longer be qualified. Members are required to immediately notify their supervisor and are not authorized to carry or deploy an AR-15. Members in a non-qualified status must conduct remedial training and pass another cold qualification and ~~safety~~ function check within twenty-one days. Failure to qualify may lead to the revocation of the member's AR-15 certification by the Training Division Manager.

1.2.3.4. Any member who fails to cold qualify on their first attempt with an AR-15 is required to receive remedial training and re-qualify cold.

1.2.4. Shotgun.

1.2.4.1. All members shall fire a passing score on the designated shotgun qualification course as prescribed by the Training Division during each tri-annual qualification period.

1.2.4.2. All members must perform a function check during each qualification period. Those who do not successfully demonstrate the function check must do so within twenty-one days.

1.2.4.3. If a member fails to shoot a passing score or fails to pass the function check, they shall not carry a shotgun on duty. Members are still required to conduct remedial training and successfully complete another cold qualification within twenty-one days.

1.2.4.4. Any member who fails to cold qualify on their first attempt with a shotgun is required to receive remedial training and re-qualify cold.

1.2.4.5. Members who have not yet attended the Department of Public Safety Standards and Training (DPSST) basic academy or the PPB Advanced Academy are exempt from the qualification and function check requirement. However, while a member is attending ~~either academy~~the Advanced Academy it is a requirement that they become proficient with the shotgun and must successfully qualify and perform the function check prior to graduation.

1.2.5. Less Lethal Launchers.

1.2.5.1. Certified members are required to re-qualify during the designated time by completing the approved course of fire. Re-qualifying members shall have their weapon inspected by a CI or certified armorer, prior to firing.

1.2.5.2. Members must pass a function check and the designated qualification course prescribed by the Training Division in order to be considered re-qualified.

1.2.5.3. Members who do not pass shall be considered non-qualified and must return on another day to attempt re-qualification. Members shall not carry their less lethal launcher on patrol until they have been re-qualified.

1.2.5.4. Members who do not re-qualify on the less lethal launcher shall not carry or deploy the weapon. Failure to do so may lead to the revocation of the member's less lethal launcher certification by the Training Division Manager.

1.2.5.5. Any member who fails to cold qualify on their first attempt with a less lethal launcher is required to receive remedial training and re-qualify cold.

1.2.5.6. For specialty unit qualification courses, assigned members shall refer to the unit's SOPs.

1.2.6. Specialty units, such as SERT and Rapid Response Team (RRT), shall conduct qualification assessments of their specialty munitions annually, at a minimum. Members shall refer to the specialty units' SOPs for additional guidance on qualification requirements.

1.2.7. Pregnancy Qualification.

1.2.7.1. Members who are pregnant, under the advice of their physician, may elect to forego qualifying for the duration of their pregnancy. Members shall qualify prior to returning to full duty.

1.2.8. Nursing Mother's Qualification.

1.2.8.1. Members who are on a nursing mother's contract shall qualify prior to returning to full duty.

1.2.8.2. Upon request, CIs shall assist the member with reducing potential lead exposures (e.g., loading/unloading, weapons maintenance, and range cleaning).

1.2.9. A member who fails to qualify on a firearm shall not be allowed to carry that firearm, either on duty or off duty, when based on their authority as a police officer until they have fired a passing score on a qualification course as prescribed by the Training Division.

~~1.2.9.~~1.2.10. CEW.

~~1.2.9.1.~~1.2.10.1. In order to be qualified to carry or use a CEW while on duty or in the exercise of police powers, each member must qualify with the CEW prior to being authorized to carry the tool. Members shall qualify annually with the CEW.

~~1.2.10.~~1.2.11. Aerosol Restraints, and Batons.

~~1.2.10.1.~~1.2.11.1. Members shall receive initial training on aerosol restraints, and batons and must demonstrate proficiency prior to issuance of each tool. There are no ongoing qualification requirements for aerosol restraints, or batons; however, a supervisor can request remedial training if deemed necessary.

~~1.2.11.~~1.2.12. Specialty Munitions:

~~1.2.11.1.~~1.2.12.1. Members shall qualify annually with specialty munitions prior to being authorized to use.

~~1.2.12.1.1.1. A member who fails to qualify on a firearm shall not be allowed to carry that firearm, either on duty or off duty, when based on their authority as a police officer until they have fired a passing score on a qualification course as prescribed by the Training Division.~~

1.3. Members shall refer to Directive 1020.00, Weapons Administration, for additional guidance regarding administrative information for each weapon.

2. Training Division Manager (or designee) Responsibilities.

2.1. Develop the qualification course for firearms, less lethal launchers, CEWs, and AR-15s with the exception of specialty units. The Training Division shall approve qualification and training plans outlined in specialty unit SOPs.

2.2. Arrange tri-annual qualifications by establishing times and locations for each RU. Print and distribute a Qualification Special Order no later than twenty-one days prior to the start of the qualification range.

2.3. Print and distribute a Non- Qualified report to all RU Managers fifteen days prior to the beginning of the open range (time during the last two weeks of the qualification period) and at the conclusion of the qualification/recertification range.

2.4. Maintain Bureau-wide weapons qualification standards and member training and certification records for auditing purposes.

2.5. Provide each unit/division with copies of requalification records for assigned members.

2.6. Ensure all members' qualification, certification, and refresher training records are maintained and up-to-date regarding applicable firearms and less lethal weapons.

2.7. Ensure members returning from Leave of Service (LOS) comply with firearms qualification requirements upon notification from the Personnel Division.

2.8. Ensure curriculum/courses, techniques and procedures used by the Training Division adhere to the provisions in this directive.

2.9. The Training Division and Professional Standards Division shall provide notice and submit for approval to the Chief of Police of any proposed changes to CEW certification rules or SOPs.

2.10. Qualification Instructor Responsibilities.

2.10.1. CIs shall review and follow all Special Orders regarding tri-annual qualification periods.

2.10.2. CIs are authorized to and shall conduct official qualification courses (for record) and firearms training. CIs are responsible for the completion and distribution of the appropriate Qualification Record.

2.10.3. CIs shall provide and conduct remedial training courses for the primary and secondary firearms, AR-15, and shotgun.

2.10.3.1. Upon completion of remedial training, CIs shall document the training in a memo and forward through channels to the Training Division Manager for members in the following conditions:

2.10.3.1.1. Conditionally qualified with a primary or secondary firearm

2.10.3.1.2. Non-qualified with a primary firearm

2.10.3.1.3. Non-qualified with the AR-15

2.10.3.1.4. Non-qualified with the shotgun

2.10.4. CIs shall provide and conduct training, qualification and re-qualification courses for the less lethal launcher and less lethal munitions.

2.10.5. CIs shall inspect all weapon systems prior to firing for qualification to determine if the weapon is clean, lubricated, not damaged, or altered beyond the Training Division-approved modifications.

2.10.6. CEW instructors shall provide and conduct training, certification, and re-qualification courses for use of a CEW.

2.10.7. A qualified instructor shall provide and conduct training courses for use of any baton.

2.10.8. A qualified instructor shall provide and conduct training courses for use of aerosol restraints.

3. Personnel Division Manager (or a designee) Responsibilities.

3.1. Notify the Training Division when members have returned from LOS.

3.2. May exempt members from qualifications based on their physical condition (with a physician's written excuse), current job assignment (unarmed, no contact with the

public), or other exceptional circumstances. Exemptions must be given in writing with a copy forwarded to the Training Division Manager.

4. RU Managers Responsibilities.

4.1. ~~Request~~Schedule training ~~and certification to~~with the Training Division once qualification course dates have been announced.

4.2. Ensure that all members assigned to their RU qualify during the qualification period as prescribed by the Training Division.

4.3. When applicable, provide a memo to the appropriate Branch Chief for any member who fails to qualify with their primary firearm within twenty-one days of their initial cold qualification. The memo shall document all training and qualification attempts and recommend a course of action (e.g., work plan, personnel action, fitness for duty, etc.).

4.4. Provide a memorandum to the member's Branch Chief if a member fails to cold qualify with a weapon other than the primary firearm within twenty one days after the first failed attempt. The memorandum shall document all training and qualification attempts and shall recommend a course of action.

4.5. Ensure that members who are non-qualified immediately qualify prior to contact with the public. A non-qualified member can neither work in an armed capacity, nor have contact with the public.

4.6. Submit written documentation for re-certification exceptions or alternative re-certification arrangements to the Training Division. Any exception or arrangement will be evaluated on a case-by-case basis after consultation with the impacted member, their RU Manager, or designee, and the Training Division Manager, or designee.

4.7. May excuse staff and undercover officers from carrying firearms and/or extra ammunition if these items are not appropriate for the assignment. These exceptions, however, should be kept to a minimum and must be documented.

4.8. Maintain a Weapons Storage and Issuance Procedures SOP that details safekeeping and storage measures for RU assigned firearms.

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Q1 Please provide feedback for this directive

COMMENTS ON FORCE, REPORTING, WEAPONS AND VEHICLE RELATED DIRECTIVES, MARCH 2018

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are our comments on the Directives posted for review on March 1 . We discovered them on the PPB website on March 9 and asked the Bureau whether a formal email had gone out to the community asking for input. The information was finally sent out on March 23. While the Bureau has signalled its intention (in Directive 010.00) to change the review timelines so there are 15 days for first reviews and 30 days for second reviews, PCW continues to think there should be longer timelines, especially for complex policies such as Use of Force (1010.00).

Of the seven policies up for review, we previously commented on five in July 2017, one (630.60-Vehicle Disposition) in October 2014, and one (630.05-Vehicle Interventions and Pursuits) in August 2015. With the exception of 630.05, most of these comments are repeats of ones we made previously that the Bureau has chosen to reject or ignore. As noted last year, our primary concern with 1010.00 is that it defines de-escalation both as lowering tension at a scene and using less force on a suspect. We also noted that the key promise made by the presence of the US Department of Justice around deadly force incidents-- that they should not be treated differently from other uses of force-- seems to have gone out the window. This was codified by the changes made to 1010.10 through City Council, wherein offices involved in the death of a civilian are not being required to write force reports until after a criminal investigation has ended, and if their gunfire did not result in death the Bureau is leaving such reporting up to the discretion of supervisors. As we noted last year, this is no way to build trust in the community or hold officers accountable.

We point you once again to comments we made on 1010.00 Force (and 1051.00 Taser Use) in October, 2012: .

We continue to urge the Bureau to number all of the sections of the Directives, such as the Definitions, Policy and Procedure sections (our comments here refer to the Procedure section unless otherwise noted). Interestingly, 630.60 includes just such a numbering scheme even though there are no definitions in Section 2; this shows that the Bureau was numbering the Definitions in 2014 but stopped without explanation.

DIRECTIVE 1021.00 WEAPONS QUALIFICATIONS

In previous comments, we wondered why Training and Professional Standards are only required to notify the Chief about changes to Taser training or procedures rather than the Chief being included in that discussion (Section 2.9). There is no provision for the Chief to approve the changes.

Regarding the requirement for officers to qualify for shooting using their secondary (non-Bureau issued) firearm (Section 1.2.2), we continue to be concerned that the Bureau has to "approve" such a weapon, but there is nothing about tracking serial numbers, how officers dispose of old personal firearms, or even whether the firearm has to be legally registered. (Inspection is required by a Certified Instructor in Directive 1020 Section 2.4.3, which doesn't address these concerns.)

We noted previously that pregnant officers were allowed to train using "non-lead bullets," but that provision disappeared. Now the Directive says such officers may forego training "under the advice of their physician" (1.2.7.1) and that nursing mothers can get assistance with "reducing potential lead exposures (eg loading/unloading, weapons maintenance and range cleaning)" (1.2.8.2). Yes, bullets are supposed to be deadly (even if we wish they weren't), but they should not additionally contaminate the atmosphere and cause harm. If non-lead alternatives exist, perhaps the Bureau should look into them.

CONCLUSION

As we have stated before, Portland Copwatch appreciates the Bureau reaching out to the community for comment, but are looking forward to more of an open dialogue when the Portland Committee on Community Engaged Policing gets underway (if ever). We continue to urge the Bureau to be open to revising its timelines for review to ensure meaningful public input can take place. One of the only reasons we were able to tackle these rather long Directives is that we had made comments on them earlier. Our commentary would be much shorter if we could just be thanking the Bureau for adopting our advice, but such changes are few and far between.

Portland Copwatch

Q2 Contact Information (optional)

Name

Email Address

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COMPLETE

Collector:	Web Link 1 (Web Link)
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Q1 Please provide feedback for this directive

COMMENTS ON FORCE, REPORTING, WEAPONS AND VEHICLE INTERVENTION DIRECTIVES, DECEMBER 2018

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are our comments on the Directives posted for review on December 1 and December 14 . As we noted in an email to the PPB, the comment the Bureau attached to Directive 1010.10 on Dead ly Force investigations states that the Bureau received no feedback on that policy in March, but 1010.10 was not posted for review in March. (The Bureau replied that the Directive was actually posted in April, but no public notification went out.)

All the other Directives posted on December 1 are ones we did comment on at that time, whereas the "odd Directive out" number 313.70 on Associations was previously posted in draft form for comment in June 2016, but apparently was never changed.

We continue to be concerned that Directive 1010.00 on Use of Force defines de-escalation both as lowering tension at a scene and using less force on a suspect. We repeat here our opposition to changes made in 2017 to these policies: they delay the requirement for officers involved in the death of a civilian to write force reports until after a criminal investigation has ended, and if their gunfire did not result in death, they leave such reporting up to the discretion of supervisors.

Going through the revised Force policy, we note that very few suggestions from Portland Copwatch were incorporated, while many suggestions from the ACLU were adopted in one way or another. It is really too bad that the Bureau discusses these changes behind closed doors as a public meeting with various stakeholders could lead to better policy making which doesn't require repeated fixing. We point the Bureau to the COCL's reports where they respond to various recommendations one by one explaining whether and why they include various suggestions into their final reports. While there is a place for the anonymous listings in the Bureau's publication of incoming comments, groups which wish to be identified (including ACLU and Portland Copwatch), and City-run advisory bodies (such as the Training Advisory Council, Citizen Review Committee, Community Oversight Advisory Board and, if they ever start looking at policies, the Portland Committee on Community Engaged Policing/PCCEP) should know what became of their suggestions.

An overall note we included as a footnote last time, but which requires serious attention: The Bureau should stop using the word "tool" to refer to weapons, as is done repeatedly in Directive 1010.00, and in Directive 1020.00 (proposed Section 5.4.3). These items are all designed to kill, harm, wound, or physically coerce people to follow police orders, not items used to hang kitchen doors or repair automobiles.

PCW acknowledges that the PPB is changing all language about previous shotgun-loaded "less lethal" munitions to reflect the new 40 MM launcher system in Directives 1010.00 and 1020.00.

We continue to urge the Bureau to give different labels to all of the sections of the Directives, such as the Definitions, Policy and Procedure sections (our comments here refer to the Procedure section unless otherwise noted) so there are not multiple sections

numbered "1." There is currently only one section in 313.70 but as the Bureau adds its new numbering scheme, if other sections are added we hope these changes will be considered.

DIRECTIVE 1021.00 WEAPONS QUALIFICATIONS

We continue to wonder why Training and Professional Standards are only required to notify the Chief about changes to Taser training or procedures rather than the Chief being included in that discussion (Section 2.9), and encourage the Bureau to add a provision for the Chief to approve the changes.

PCW also continues to suggest the PPB add requirements in Section 1.2.2 that officers' Bureau-approved secondary weapons should be checked for serial numbers, be legally registered and be disposed of appropriately. That Section only requires officers to qualify for shooting using those firearms, and Directive 1020 Section 2.4.3 only requires a Certified Instructor to "inspect" such weapons.

Once more we focus on the Bureau's minimizing concerns about how lead can affect everyone, including female officers who bear children. The Directive says pregnant officers may forego training "under the advice of their physician" (1.2.7.1) and that nursing mothers can get assistance with "reducing potential lead exposures (eg loading/unloading, weapons maintenance and range cleaning)" (1.2.8.2). We previously wrote that deadly bullets "should not additionally contaminate the atmosphere and cause harm. If non-lead alternatives exist, perhaps the Bureau should look into them."

CONCLUSION

Portland Copwatch would still like to see more of an open dialogue around the Directives, perhaps under the auspices of the PCCEP. We also note that while these comments are easier for PCW to make since we've looked at all of these Directives in previous forms, the timelines are still restrictive for many people, including groups who only meet once a month.

Portland Copwatch

Q2 Contact Information (optional)

Name

Email Address